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Das Staatsarchiv.

Sammlung der officiellen Actenstücke zur Geschichte der Gegenwart.

Herausgegeben

von

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I. Inhaltsverzeichniss, nach den Gegenständen alphabetisch geordnet.

Italienische Frage. (Vergl. Bd. VIII.)

Seerecht. (Vgl. auch **Nordamerikanische Actenstücke.**)

Thronreden, Manifeste, Proclamationen etc. (Vgl. Bd. VIII. u. vorg.)

II. Inhaltsverzeichniss nach den Ursprungsländern der Actenstücke alphabetisch geordnet.

No. 1843.

OESTERREICH. — Min. d. Ausw. an die k. k. Gesandtschaften bei den deutschen Höfen. — Instruction betreffend die Einladung zum Fürstentage. —

Wien, den 4. August 1863.

No. 1843. Oesterreich 4. Aug. 1863.

Ich habe die Ehre, Ihnen das in Ur- und Abschrift anliegende Allerhöchste Handschreiben Sr. Majestät des Kaisers*) an Se. . . . . mit dem Auftrage zu übersenden, dasselbe durch die gefällige Vermittlung des . . . . Herrn Ministers des Aeussern an seine hohe Bestimmung gelangen zu lassen. ¶ Zugleich ersuche ich Sie, die Uebergabe des Kaiserlichen Schreibens bei dem Herrn Minister mit den nachfolgenden Bemerkungen einleiten zu wollen. ¶ Unseren Deutschen Bundesgenossen wird die Erklärung noch in frischem Gedächtnisse sein, welche die Kais. Regierung in der Bundestagssitzung vom 22. Jänner d. J. abgeben liess, nachdem der Antrag auf Einberufung einer aus den deutschen Ständekammern hervorgehenden Versammlung zur Berathung der Gesetzesentwürfe über Civilprocess und Obligationenrecht abgelehnt worden war. Oesterreich bekundete damals seine Bereitwilligkeit, jederzeit in Berathungen wegen Errichtung einer verstärkten Executive des Bundes und wegen organischer Einführung eines repräsentativen Elementes in die Bundesverfassung einzutreten. Viele Mitglieder des Bundes äusserten sich in gleichem Sinne, und auch von denjenigen Regierungen, welche aus verschiedenen Gründen gegen den erwähnten Antrag gestimmt hatten, war das Bedürfniss einer Reform der Bundesverfassung im Grundsatze keineswegs in Abrede gestellt worden. ¶ Seit jenen Vorgängen hat sich der Kais. Oesterreichische Hof immer mehr in der Ueberzeugung bestärkt gefunden, dass Deutschlands politische Verfassung nicht länger ohne die ernstlichsten Gefahren in ihrem gegenwärtigen gelockerten Zustande belassen werden könne. Immer deutlicher glaubte er zu erkennen, dass der Gegenwart eine Aufgabe von unvergleichlicher Wichtigkeit gestellt sei, die Aufgabe, den Bund der Deutschen Fürsten und Völker, nach den mannigfachen Erschütterungen, die er erlitten, auf verstärkten und dem Geiste unserer Epoche angemessenen Grundlagen zu erneuern. Einer solchen Anschauung konnte die Kais. Regierung begreiflicher Weise nicht Raum geben, ohne sich zugleich zur sorgfältigsten Erwägung der Frage hingedrängt zu fühlen, in welchen Wegen und Formen neue Berathungen über Wiederbefestigung und zeitgemässe Ausbildung der Bundesverfassung am zweckmässigsten zu eröffnen wären, und wie für die Erreichung dieses grossen Zieles, für welches sie das Aeusserste, was in ihrer Macht steht,

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zu leisten für Pflicht hält, die möglichst günstigen Voraussetzungen hergestellt werden könnten. ¶ Eingedenk früherer Erfahrungen hat die Kais. Regierung nun aber den Zweifel nicht zu unterdrücken vermocht, ob in blossen schriftlichen Unterhandlungen zwischen den Cabineten oder auch in ministeriellen Conferenzen ein der Höhe und Bedeutung des angestrebten Zweckes vollkommen entsprechendes Mittel der Verständigung zu erkennen sei. Die Frage der Reorganisation des Deutschen Bundes berührt die Interessen der Souveräne Deutschlands so unmittelbar, es bestehen auf dem Gebiete dieser Frage so mannigfaltige und so vielfach auseinandergehende Anschauungen und Wünsche, deren Widerstreit nur von den höchsten Gesichtspunkten aus überwunden werden kann, dass es kaum möglich ist, von den Bemühungen blosser Unterhändler, die nicht das Recht eigener freier Entschliessung zu dem wichtigen Werke mitbringen, den Sieg über so grosse Schwierigkeiten zu erwarten. Im Geiste Sr. Majestät des Kaisers, unseres allergnädigsten Herrn, ist daher der Gedanke entstanden, dass die Deutschen Fürsten in Person, die Regierer der Staaten, deren Bund befestigt werden soll, die obersten Interessenten an der Sicherheit und Wohlfahrt Deutschlands, sich durch einen unmittelbaren Meinungsaustausch leichter und vollständiger, als durch Mittelspersonen, über eine heilsame Neugestaltung der Bundesverhältnisse einigen würden. Und so wie der Entschluss, die Deutschen Fürsten zu einer Versammlung zu solchem Zwecke einzuladen, aus unseres Kaiserlichen Gebieters eigener persönlicher Eingebung hervorgegangen ist, so haben Se. Majestät Sich auch persönlich an Allerhöchst Ihren hohen Bundesgenossen . . . . wenden wollen, um Höchstdenselben um Seine Theilnahme an der beabsichtigten Vereinigung anzugehen. ¶ Von den vorstehenden Erläuterungen wollen Euer . . . . bei Vollziehung des obenerwähnten Auftrages den geeigneten Gebrauch machen, auch dem . . . . Herrn Minister den gegenwärtigen Erlass zur Verfügung stellen, damit er selben seinem Herrn, zugleich mit dem Allerhöchsten Handschreiben des Kaisers vor Augen bringen könne. ¶ Empfangen, etc.

Rechberg.

No. 1844.

PREUSSEN. — Memoire, in welchem der König seine eigenen Aeusserungen gegen den Kaiser von Oesterreich bei der Unterredung zu Gastein am 3. August 1863 über das Oesterreichische Reformproject aufgezeichnet hat, und welches am 4. desselben Monats nach Wien gesandt wurde.*) —

P. M.

No. 1844. Preussen, 3. Aug. 1863.

Auf die mir von Sr. Majestät dem Kaiser gemachte Vorlage in Betreff einer Reform des Deutschen Bundes, fasse ich folgend meine mündlich gemachten

*) Citirt ist dieses Memoire in der unter No. 1757 abgedruckten Preussischen Depesche nach Wien vom 14. August 1863. Der bisher bekannt gewordene Text dieser Depesche ist übrigens bei Weitem nicht vollständig, derselbe enthält vielmehr eine Lücke, welche grösser ist als der veröffentlichte Theil, und an deren Stelle jetzt, auch in unserem Abdruck, nur der kurze Satz steht: „Ew. Exc. werden zu Ihrer eigenen Kenntniss aus dem vorliegenden Memoire . . . . . das Nöthige entnehmen.“ —

Bemerkungen hier schriftlich zusammen, vorbehaltlich einer sofortigen Beleuchtung des mir übergebenen Memoires.

1. Der Darstellung der Nothwendigkeit, zu einer Reform der Deutschen Bundesverhältnisse zu schreiten, trete ich vollständig bei.

2. Die Absicht, einen Fürsten-Congress dieserhalb zu berufen, und zwar schon zum 16. d. M. in Frankfurt a/M., halte ich in so kurz gestelltem Termin einmal, und andererseits an und für sich, für bedenklich:

a, weil die betreffenden Fürsten sich gar nicht auf diesen unendlich weittragenden Schritt vorbereiten können, und wenn dies auch durch einen weiter hinauszuschiebenden Termin noch einigermassen möglich wäre, es

b, sehr gewagt ist, die Fürsten unter sich über einen Gegenstand berathschlagen zu lassen, der eine sehr reifliche Erwägung nach allen Seiten hin zur Nothwendigkeit macht, welche in einem so gestalteten Collegium unmöglich erscheint, wie dies die Erfahrung öfter bewiesen hat, da die Arbeitsfähigkeit dazu mangelt.

Ich würde es daher durchaus vorziehen, dass zuerst die Minister der Staaten der 17 Bundestagsstimmen zu einer solchen vorläufigen Berathung zusammen berufen würden, die diese Frage geschäftsmässig vorbereiteten, welcher Arbeit dann durch die zu convocirenden Fürsten die Sanction ertheilt werden könnte.

3. Die Zusammenberufung von Delegirten aus den bereits bestehenden Ständeversammlungen erscheint bei der Composition der Kammern vieler Bundesstaaten bedenklich, indem die daraus hervorgehenden Vertreter, welche zu Hause beschliessende Stimmen haben, mit berathender im Parlament niemals zufrieden sein, sondern nothwendig von Hause aus dahin streben würden, zu anderen Attributionen zu gelangen, so dass von vorn herein die Uebereinstimmung fehlen würde.

Wenn dagegen für alle Bundes-Staaten ein gleiches, durchaus conservatives Wahlreglement aufgestellt würde, so hätte man die Aussicht, ein conservatives Parlament zu erhalten, welches sich die Kräftigung, aber nicht die Lähmung der Regierungen zur Aufgabe stellte, und welchem ausgedehntere als blos berathende Befugnisse verliehen werden könnten.

4. Die Stellung eines Executiv-Directoriums von 5 Stimmen wird grossen Schwierigkeiten wegen Bestellung der 3 Glieder ausser Preussen und Oesterreich begegnen, ohne das so nothwendige, schnelle, übereinstimmende Zusammenwirken sicher zu stellen. Die Zusammensetzung eines Directoriums wird wesentlich durch den Umfang der demselben zu gebenden Attributionen bedingt; je grösser die Machtvollkommenheit des Directoriums würde, desto schwieriger wird die Zustimmung der dabei unbetheiligten Staaten zu gewinnen sein.

Schliesslich muss ich noch gegen den unvorbereiteten und übereilten Fürsten-Congress zu bedenken geben, welchen Eindruck es machen würde, wenn derselbe unverrichteter Sache, vielleicht in grösserer Uneinigkeit auseinandergingе, als man zusammengekommen war. Eine solche Vereinigung ist seit dem Wiener Congress nicht da gewesen. Welches Aufsehen, welche

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Erwartungen muss dieser Apparat machen? Er muss daher auch ein sicheres Resultat versprechen, und darum ist eine, den Erfolg sichernde, Vorbereitung unerlässlich.

Je höher durch eine so ausserordentliche Massregel die Erwartungen gespannt werden, um so leichter wird es der Revolution werden, das Ergebniss als ungenügend darzustellen und die betheiligten Monarchen hierfür persönlich verantwortlich zu machen.

Gastein, 3. August 1863.

No. 1845.

ÖSTERREICH. — Promemoria, dem Könige von Preussen mit der erneuten Einladung zum Fürstentag am 7. August 1863 durch einen k. k. Flügeladjutanten nach Gastein überbracht.*) —

No. 1845. Oesterreich, 7. Aug. 1863.

Aus dem Umstande, dass Se. Majestät der König von Preussen die Ansichten des Kaisers über die Unerlässlichkeit einer Reform der Deutschen Bundesverhältnisse als begründet anerkannt haben, schöpft der Kaiser die Hoffnung auf ein Einverständniss auch darüber, dass die Reformfrage eine ausserordentliche, aus dem Geleise der früheren unfruchtbar gebliebenen Versuche heraustretende Methode der Behandlung erheische. ¶ Des Königs Majestät erheben zwar gegen das vorgeschlagene Mittel einer persönlichen Besprechung der Deutschen Fürsten den Einwand, dass es an der nöthigen Vorbereitung für eine so weit tragende Berathung fehle, und dass es gewagt sei, die Fürsten auf die Gefahr hin, dass sie sich nicht vereinigen würden, über einen Gegenstand in Person berathschlagen zu lassen, der nach allen Seiten hin so reiflich erwogen werden müsse. Allein da die Deutsche Reformfrage seit Jahren nach allen Richtungen hin erwogen worden ist, da in den Kanzleien massenhaftes Material nutz- und fruchtlos aufgehäuft liegt, und da sich der Weg blosser ministerieller Conferenzen noch jedes Mal als unpraktisch erprobt hat, so wird man den Gedanken Sr. M. des Kaisers begreifen, dass es sich nicht darum handeln könne, das schon so oft gescheiterte Experiment weitaussehender Berathungen zu wiederholen, sondern dass den Deutschen Fürsten unmittelbare Gelegenheit zu einem endlichen durchgreifenden Entschlusse geboten werden sollte. ¶ Eine Garantie für den gewünschten Erfolg wird allerdings niemals im Voraus geboten werden können, aber jedenfalls dürften die Motive zur Einigung sich in einer Versammlung der Fürsten Deutschlands ungleich stärker geltend machen, als in einer abermaligen der Routine der Geschäftsmänner anheimgestellten Unterhandlung. ¶ Auf den Gegenvorschlag, zuerst eine Minister-Conferenz und dann erst einen Fürsten-Congress einzuberufen, dürfte ferner zu entgegnen sein, dass es des letzteren nicht mehr bedürfen würde, falls die erstere zum Ziele führte. ¶ Wenn der König in Bezug auf den Modus der Wahl des Vertretungskörpers am Bunde gegen die Wahl von Delegirten aus den be-

*) Ebenfalls in No. 1757 citirt.

stehenden Ständeversammlungen Bedenken äussert, so soll nicht verkannt werden, dass, wenn in den letzteren ein oppositioneller Geist vorherrscht, dieser Geist auch in den Bundesverhältnissen grosse Schwierigkeiten wird hervorrufen können. Allein gegen solche Ausschreitungen werden directe Wahlen zu einem Bundesparlament noch viel weniger ein Schutzmittel darbieten, da dem Vorschlage des Königs, ein gleiches durchaus conservatives Wahlreglement für alle Staaten aufzustellen, der Einwand völliger Unausführbarkeit entgegenstehen dürfte. Dem Begriffe eines Föderativverhältnisses entspricht jedenfalls die Vertretung der Staatskörperschaften weit mehr als ein direct gewähltes Gesammt-Parlament, und zur Ausübung beschliessender Befugniss in Bundesangelegenheiten dürfte eine Institution der ersteren Art sich unbedingt besser eignen, als eine mit den grossen politischen Versammlungen in Wien und Berlin in keinem Zusammenhange stehende Repräsentativkörperschaft am Bunde. ¶ Was schliesslich die Bildung des Directoriums aus 5 Mitgliedern betrifft, so hat sich diese Combination Sr. M. dem Kaiser nicht blos aus inneren Zweckmässigkeitsgründen, sondern besonders auch aus dem Grunde empfohlen, weil Oesterreich und Preussen zur Zeit der Dresdener Conferenzen bereits über das Princip eines Vollziehungsrathes von 5 Stimmen unter sich einig waren. Die Schwierigkeit, dem Directorium den unbetheiligten Staaten gegenüber ausgedehnte Befugnisse zu verleihen, lässt sich nicht in Abrede stellen, doch dürfte diesem Einwande die Spitze dadurch abgebrochen werden können, dass grundsätzlich das Recht, zum Mitgliede des Directoriums gewählt zu werden, sämmtlichen Deutschen Fürsten durch eine passende Einrichtung gewahrt würde. —

No. 1845. Oesterreich, 7. Aug. 1863.

No. 1846.

ÖSTERREICH. — Min. d. Ausw. an die k. k. Gesandtschaften bei den deutschen Höfen, welche an dem Fürstentage Theil genommen, betreffend die Oesterreichische Depesche nach Berlin vom 30. October 1863.*) —

Wien, am 30. October 1863.

No. 1846. Oesterreich, 30. Oct. 1863.

Bei der Besprechung in Nürnberg haben sich die dort versammelt gewesenen Minister dahin geeinigt, dass zuerst das Kais. Oesterreichische Cabinet die Erklärungen Preussens vom 22. September mittelst einer die drei Präjudizialbedingungen ablehnenden Depesche beantworten und diese Depesche den übrigen betheiligten Regierungen mittheilen solle, worauf diese letzteren dem Kön. Preussischen Cabinete ihr Einverständniss mit derselben zu erkennen geben würden. ¶ Im Sinne dieser Verabredung richten wir an den Kais. Gesandten in Berlin den sammt einer motivirenden Denkschrift in Abschrift anliegenden Erlass.*) Das letztere Actenstück beschränkt sich auf die Erklärung, dass ein Eingehen auf jene drei Vorbedingungen mit dem Föderativ-Princip nicht im Einklange stehen würde, eine Unterhandlung auf Basis derselben sonach zu keinem Ergebnisse führen könnte, so wie auf den Ausdruck der Hoffnung, dass die Kön. Preussische Regierung nicht dabei beharren werde, ihren Eintritt in Unter-

*) No. 1771.

No. 1846. Oesterreich, 30. Oct. 1863.

handlungen über die Reformacte von den aufgestellten präjudiziellen Bedingungen abhängig zu machen. ¶ Die Gründe des Kais. Oesterreichischen Cabinets für jene Erklärung sind in der beiliegenden Denkschrift näher entwickelt. ¶ Diese Form gewährt den Vortheil, dass alle diejenigen Regierungen, welche die Frankfurter Reformacte angenommen und sich verpflichtet haben, auf deren Durchführung hinzuwirken, eine Unterhandlung auf einer dem Geiste der Reformacte widerstreitenden Basis sonach nicht billigen können, sich den in der Depesche an den Grafen Karolyi enthaltenen Erklärungen auch in dem Falle werden anschliessen können, wenn sie etwa den einen oder den anderen der in der mehrerwähnten Denkschrift vom Kais. Cabinete geltend gemachten Gesichtspunkte nicht in ganz unbedingter Uebereinstimmung mit ihren eigenen Anschauungen fänden. ¶ Mit diesen einleitenden Bemerkungen wollen Euer ... die Anlagen dieses Erlasses zum Gegenstande einer Mittheilung an die .... Regierung machen, und den Herrn Minister .... ersuchen, das Kais. Cabinet gefälligst von der Rückäusserung in Kenntniss setzen zu wollen, welche die.... Regierung ihrerseits in Erwiderung auf die Eröffnung des Kön. Preussischen Cabinets vom 22. September nach Berlin zu richten sich veranlasst finden dürfte. ¶ Empfangen, etc.

Rechberg.

No. 1847.

HANSESTÄDTE und **FRANKREICH.** — Traité de commerce et de navigation. —

No. 1847. Hanseat.-französ. Vertrag, 4. März 1865.

Les Sénats des Villes libres et Anséatiques de Lubeck, Brême et Hambourg d'une part, et Sa Majesté l'Empereur des Français d'autre part, animés d'un égal désir de resserrer les liens d'amitié et de contribuer au développement des relations commerciales et maritimes entre les Villes libres et Anséatiques et la France, ont résolu de conclure un traité à cet effet, et ont nommé pour Leurs Plénipotentiaires, savoir: — — Lesquels, après s'être communiqué leurs pleins-pouvoirs respectifs, trouvés en bonne et dûe forme, sont convenus des articles suivants.

Article 1. Il y aura pleine et entière liberté de commerce et de navigation entre les habitants de la France et des trois Villes de Lubeck, Brême et Hambourg. Ils auront réciproquement le droit de posséder des biens-fonds dans toutes les parties des États des Hautes Parties contractantes, d'y occuper des maisons et des magasins et de disposer de leur propriété personnelle d'une nature ou dénomination quelconque, en quelque manière que ce soit. ¶ Ils ne seront pas soumis, à raison de leur commerce ou de leur industrie, dans les ports, villes ou lieux quelconques des dits États, soit qu'ils s'y établissent, soit qu'ils y résident temporairement à des droits, obligations, taxes, impôts ou patentes, sous quelque dénomination que ce soit, autres ni plus élevés que ceux qui seraient perçus sur les nationaux; et les privilèges, immunités et autres faveurs quelconques dont jouiraient en matière de commerce ou d'industrie les sujets et citoyens de l'une

des Hautes Parties contractantes, seront communs à ceux de l'autre. ¶ Ils ne pourront enfin être assujétis, pour obtenir la jouissance des divers droits énoncés dans cet article, à l'accomplissement d'aucune obligation de nature à leur faire perdre leur nationalité d'origine.

Art. 2. Les sujets et citoyens des Hautes Parties contractantes seront réciproquement exempts de tout service personnel, soit dans les armées de terre ou de mer, soit dans les gardes ou milices nationales. Ils seront également dispensés de toute charge et fonction judiciaire et municipale quelconque.

Art. 3. Les navires Français de quelque lieu qu'ils viennent, qui entreront, chargés ou sur lest, dans les ports Anséatiques, ne payeront dans ces ports, soit à l'entrée, soit à la sortie, soit durant leur séjour, d'autres ni de plus forts droits de tonnage, de pilotage, de quarantaine, de phare ou autres charges qui pèsent sur la coque des navires, sous quelque dénomination que ce soit, perçus au profit de l'État, des communes, des corporations locales, des particuliers ou d'établissements quelconques, que ceux dont sont ou seront passibles les navires Anséatiques venant des mêmes lieux et ayant la même destination. ¶ Les navires Français venant directement d'un port de France avec chargement, ou sans chargement de tout port quelconque dans les ports Brêmois, seront en outre affranchis de tout droit de tonnage ainsi que des droits de navigation connus sous le nom de „Seeschifffahrts-Abgabe." ¶ Réciproquement les navires Brêmois venant directement d'un port Brêmois avec chargement, ou sans chargement de tout port quelconque, seront complétement affranchis des droits de tonnage et d'expédition dans les ports de France. ¶ Jusqu'à ce qu'il convienne aux Villes Anséatiques d'exempter leurs propres navires de tout droit de tonnage, comme la France le fait pour les siens, et sauf les exceptions prévues dans le paragraphe précédent, les navires des dites Villes Anséatiques venant directement des ports Anséatiques avec chargement, ou sans chargement d'un port quelconque, payeront dans les ports de France, comme droit de tonnage, pour l'entrée et la sortie réunies, 50 centimes par tonneau, décimes compris; ils seront, d'ailleurs, assimilés aux navires Français pour tous les autres droits ou charges énumérés dans le présent article. ¶ Dans le cas où les droits perçus dans les ports Anséatiques sur les navires Français viendraient à être augmentés, diminués ou supprimés, le droit prélevé en France sur les navires Anséatiques venant directement des ports Anséatiques avec chargement et de tout port quelconque sans chargement, sera modifié dans une proportion équivalente. ¶ Sa Majesté l'Empereur des Français s'engage d'ailleurs à faire jouir les bâtiments des Villes Anséatiques de tout avantage qu'il serait dans le cas d'accorder par la suite dans les ports de ses États, aux bâtiments d'une autre nation Européenne par rapport à la navigation indirecte.

Art. 4. Les deux Hautes Parties contractantes se réservent la faculté de prélever, dans leurs ports respectifs, sur les navires de chacune d'Elles, ainsi que sur les marchandises composant la cargaison de ces navires, des taxes spéciales affectées aux besoins d'un service local. ¶ Il est entendu que les taxes dont il s'agit devront dans tous les cas, être appliquées également aux navires des

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deux Hautes Parties contractantes, ou à leurs cargaisons. ¶ En ce qui concerne le placement des navires, leur chargement ou leur déchargement, dans les ports, hâvres, rades ou bassins, et généralement pour toutes les dispositions ou formalités quelconques auxquelles peuvent être soumis les navires de commerce, leurs équipages et leurs cargaisons, il est réciproquement convenu qu'il ne sera accordé aux navires nationaux de l'une des Hautes Parties contractantes aucun privilége, ni aucune faveur qui ne le soit également aux navires de l'autre Puissance, la volonté des Hautes Parties contractantes étant que, sous ce rapport aussi, leurs bâtiments soient traités sur le pied d'une parfaite égalité.

Art. 5. La nationalité et la capacité des navires seront admises, de part et d'autre, d'après les lois et réglements particuliers à chaque pays, au moyen des documents délivrés aux capitaines par les autorités compétentes. ¶ La perception des droits de navigation se fera respectivement, au choix du capitaine, soit d'après le chiffre du tonnage inscrit sur les documents susmentionnés, soit d'après le mode de jaugeage usité dans le port où se trouve le navire.

Art. 6. Tous les produits et autres objets de commerce dont l'importation ou l'exportation pourra légalement avoir lieu en France par navires nationaux, pourront également y être importés ou en être exportés par des navires Anséatiques. ¶ Les marchandises importées dans les ports de l'Empire par des navires Anséatiques pourront y être livrées à la consommation, au transit ou à la réexportation, ou enfin être mises en entrepôt, au gré du propriétaire ou de ses ayants-cause, le tout sans être assujéties à des droits de magasinage, de surveillance ou autres charges de même nature, plus forts que ceux auxquels sont ou seront soumises les marchandises apportées par des navires nationaux. ¶ Les mêmes avantages ou facilités sont garantis aux Français dans les Villes Anséatiques.

Art. 7. L'article précédent n'est pas applicable au cabotage, c'est-à-dire au transport de produits ou marchandises chargés dans un port avec destination pour un autre port du même territoire, en tant que, d'après les lois du pays, ce transport n'est pas autorisé sous pavillon étranger.

Art. 8. Les produits de toute nature et de toute origine, importés directement d'un port des Villes Anséatiques en France ou en Algérie, sous pavillon de l'une des Villes Anséatiques, et, réciproquement, les marchandises de toute nature importées de quelque lieu que ce soit, dans les Villes Anséatiques, sous pavillon Français, jouiront des mêmes exemptions, restitutions de droits, primes ou autres faveurs quelconques; elles ne payeront respectivement d'autres ni de plus forts droits de douane, de navigation ou de péage perçus au profit de l'État, des communes, des corporations locales, de particuliers ou d'établissements quelconques et ne seront assujéties à aucune autre formalité que si l'importation en avait lieu sous pavillon national. ¶ Il est entendu que la relâche d'un navire des Villes Anséatiques dans un ou plusieurs ports intermédiaires, ne lui fera pas perdre le bénéfice de l'importation directe, à la condition que ce navire n'aura fait aucune opération d'embarquement dans ces ports d'escale. ¶ Il est expressément entendu que les conditions spéciales imposées en France aux importations

effectuées sous pavillon Français, d'ailleurs que des pays d'origine, s'appliqueront aux produits expédiés en France des entrepôts des Villes Anséatiques sous pavillon de ces Villes.

Art. 9. Seront complétement affranchis des droits de tonnage et d'expédition dans les ports respectifs:

1⁰ Les navires qui, entrés sur lest de quelque lieu que ce soit, en ressortiront sur lest;

2⁰ Les navires qui passant d'un port de l'une des Hautes Parties contractantes dans un autre port soit Français, soit Anséatique, tant pour y déposer tout ou partie de leur cargaison, que pour y composer ou pour y compléter leur chargement, justifieront avoir déjà acquitté ces droits;

3⁰ Les navires qui, entrés avec chargement dans un port, soit volontairement soit en relâche forcée, en sortiront sans avoir fait aucune opération de commerce.

Ne seront pas considérés, en cas de relâche forcée, comme opération de commerce, le débarquement et le rechargement des marchandises pour la réparation du navire ou pour sa purification quand il est mis en quarantaine, le transbordement sur un autre navire en cas d'innavigabilité du premier, les dépenses nécessaires au ravitaillement des équipages et la vente des marchandises avariées, lorsque l'administration des douanes en aura accordé l'autorisation. ¶ Les exceptions à la franchise de pavillon qui atteindraient, en France, les navires Français venant d'ailleurs que des Villes Anséatiques, seront communes aux navires Anséatiques faisant les mêmes voyages.

Art. 10. Les navires de l'une des Hautes Parties contractantes entrant dans un port de l'autre et qui n'y voudraient décharger qu'une partie de leur cargaison, pourront, en se conformant aux lois et réglements des États respectifs, conserver à leur bord la partie de leur cargaison qui serait destinée à un autre port, soit du même pays, soit d'un autre, et la réexporter sans être astreints à payer pour cette dernière partie de leur cargaison aucun droit de douane, sauf ceux de surveillance, lesquels d'ailleurs ne pourront être perçus qu'au taux fixé pour la navigation nationale.

Art. 11. Les produits du sol et de l'industrie des Villes Anséatiques jouiront, à leur importation dans les Colonies Françaises, de tous les avantages et faveurs qui sont actuellement ou seront par la suite accordés aux produits similaires de toute autre nation Européenne la plus favorisée, et les bâtiments des Villes Anséatiques seront, dans les Colonies Françaises à leur entrée, pendant leur séjour, ainsi qu'à leur sortie, qu'ils soient chargés ou sur lest, et sans distinction de provenance, traités de tout point comme ceux de toute autre nation Européenne la plus favorisée.

Art. 12. Les navires des Villes Anséatiques employés à l'intercourse entre les ports des dites Villes et l'Algérie, jouiront dans les ports de cette possession Française d'une réduction de 50 pour cent sur le taux général des droits de tonnage. ¶ Dans le cas où un navire Anséatique entrerait successivement dans plusieurs ports de cette possession pour compléter son déchargement ou

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son chargement, la totalité des droits de tonnage qui seront perçus, ne pourra dépasser le maximum fixé dans le paragraphe précédent.

Art. 13. Les marchandises de toute nature qui seront exportées des Villes Anséatiques par navires Français, ou de France par navires Anséatiques, pour quelque destination que ce soit, ne seront pas assujéties à d'autres droits ni formalités de sortie, que si elles étaient exportées par navires nationaux, et elles jouiront, sous l'un et l'autre pavillon, de toute prime ou restitution de droits, ou autres faveurs qui seront accordées, dans chacun des deux pays, à la navigation nationale.

Art. 14. Il est fait exception aux stipulations de la présente convention en ce qui concerne les avantages dont les produits de la pêche nationale sont ou pourront être l'objet, tant en France que dans les Villes Anséatiques.

Art. 15. Les stipulations des articles 3, 8 et 12 du présent traité s'appliqueront également aux navires Anséatiques, ainsi qu'à leurs cargaisons, arrivant d'un port du Zollverein. Cette disposition ne pourra, dans aucun cas, entrer en vigueur avant que les navires Français ne soient admis dans ces mêmes ports au bénéfice du traitement national. ¶ Il est entendu que les navires Anséatiques venant directement d'un port du Zollverein en France, seront assujétis aux mêmes droits de tonnage que les navires du Zollverein faisant la même intercourse.

Art. 16. Les fabricants et marchands Français, ainsi que leurs commis-voyageurs, dûment patentés en France dans l'une de ces qualités, pourront, dans les Villes Anséatiques, sans y être soumis à aucun droit de patente, faire des achats pour les besoins de leur industrie et recueillir des commandes, avec ou sans échantillons, mais sans colporter des marchandises. ¶ Il y aura réciprocité en France pour les fabricants et marchands Anséatiques et leurs commis-voyageurs. ¶ Les formalités nécessaires pour obtenir cette immunité sont réglées par l'alinéa F. du protocole annexé au présent traité.

Art. 17. Les objets passibles d'un droit d'entrée qui servent d'échantillons et qui seront importés dans les Villes Anséatiques par des voyageurs de commerce Français, ou en France par des voyageurs de commerce Anséatiques, seront, de part et d'autre, admis en franchise temporaire moyennant les formalités de douane nécessaires pour en assurer la réexportation ou la réintégration en entrepôt; ces formalités sont réglées par l'alinéa G. du protocole annexé au présent traité.

Art. 18. Les Hautes Parties contractantes déclarent mutuellement reconnaître à toutes les compagnies et autres associations commerciales, industrielles ou financières, ainsi qu'aux sociétés à responsabilité limitée, et autorisées suivant les lois particulières de l'un des deux pays, la faculté d'exercer leurs droits et d'ester en justice, soit pour y intenter une action, soit pour y défendre dans toute l'étendue du territoire de l'autre État, sans autre condition que de se conformer aux lois de cet État. Il est entendu que la disposition qui précède s'applique aussi bien aux compagnies et associations constituées et autorisées antérieurement à la signature du présent traité, qu'à celles qui le seraient ultérieurement.

Art. 19. Les Hautes Parties contractantes s'accordent réciproquement le droit de nommer dans les ports et places de commerce de l'autre, des Consuls-Généraux, Consuls, Vice-Consuls et Agents consulaires, se réservant toutefois de n'en pas admettre dans tels lieux qu'Elles jugeront convenable de désigner. Les Consuls-Généraux, Consuls, Vice-Consuls et Agents consulaires, ainsi que leurs chanceliers, jouiront, à charge de réciprocité, des mêmes priviléges, pouvoirs et exemptions dont jouissent ou jouiront ceux des nations les plus favorisées. ¶ Dans le cas où ils exerceraient le commerce, ils seront tenus de se soumettre aux mêmes lois et réglements auxquels sont soumis, dans le même lieu, par rapport à leurs transactions commerciales, les particuliers de leur nation.

Art. 20. Les dits Consuls-Généraux, Consuls, Vice-Consuls et Agents consulaires de chacune des deux Hautes Parties contractantes recevront des autorités locales toute aide et assistance pour la recherche, l'arrestation et la remise des marins et autres individus faisant partie de l'équipage des navires de guerre ou de commerce de leur pays respectif, et qui auraient déserté dans un port situé sur le territoire de l'une des deux Hautes Parties contractantes. ¶ A cet effet, ils s'adresseront par écrit aux tribunaux, juges ou fonctionnaires compétents et justifieront, par l'exhibition des registres du bâtiment, rôles d'équipages ou autres documents officiels, ou bien, si le navire était parti, par la copie ou un extrait des dites pièces, dûment certifié par eux, que les hommes qu'ils réclament ont réellement fait partie du dit équipage. ¶ Sur cette demande ainsi justifiée la remise ne pourra être refusée. ¶ Les dits déserteurs, lorsqu'ils auront été arrêtés, resteront à la disposition des Consuls, Vice-Consuls et Agents consulaires et pourront même être détenus et gardés dans les prisons du pays, à la réquisition et aux frais des Agents précités, jusqu'au moment où ils seront réintégrés à bord du bâtiment auquel ils appartiennent, ou jusqu'à ce qu'une occasion se présente de les renvoyer dans le pays des dits Agents, soit sur un navire de la même ou de toute autre nation, soit par terre. ¶ Si pourtant cette occasion ne se présentait pas dans le délai de trois mois, à compter du jour de leur arrestation, ou si les frais de leur emprisonnement n'étaient pas régulièrement acquittés par la partie à la requête de laquelle l'arrestation a été opérée, les dits déserteurs seront remis en liberté, sans qu'ils puissent être arrêtés de nouveau pour la même cause. ¶ Néanmoins, si le déserteur avait commis, en outre, quelque délit à terre, son extradition pourra être différée par les autorités locales jusqu'à ce que le tribunal compétent ait dûment statué sur le dernier délit, et que le jugement intervenu ait reçu son entière exécution. ¶ Il est également entendu que les marins ou autres individus faisant partie de l'équipage, sujets du pays où la désertion a eu lieu, sont exceptés des stipulations du présent article.

Art. 21. Toutes les opérations relatives au sauvetage des navires Anséatiques naufragés sur les côtes de France, seront dirigées par les Consuls et Vice-Consuls des Villes Anséatiques, et réciproquement les Consuls ou Vice-Consuls Français dirigeront les opérations relatives au sauvetage des navires de leur nation, naufragés ou échoués sur le territoire des Villes Anséatiques. ¶ L'intervention des autorités locales dans les territoires des Hautes Parties contractantes aura seulement lieu pour maintenir l'ordre, garantir les intérêts des

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sauveteurs, s'ils sont étrangers aux équipages naufragés, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées. ¶ En l'absence et jusqu'à l'arrivée des Consuls, Vice-Consuls et Agents consulaires, les autorités locales devront, d'ailleurs, prendre toutes les mesures nécessaires pour la protection des individus et la conservation des effets naufragés. ¶ Il est, de plus, convenu que les marchandises sauvées ne seront tenues à aucun droit de douane à moins qu'elles ne soient admises à la consommation locale.

Art. 22. Les Hautes Parties contractantes ne pourront accorder aucun privilége, faveur ou immunité concernant le commerce ou la navigation à un autre État qui ne soit aussi, à l'instant, étendu à leurs nationaux respectifs.

Art. 23. Les produits du sol et de l'industrie des Villes Anséatiques jouiront, à leur importation en France ou en Algérie, de tous les avantages et faveurs qui sont accordés aux produits similaires du Zollverein, en vertu du traité du 2 Août 1862 et sous les conditions fixées par ce même traité. ¶ Dans le cas où pendant la durée du présent traité, l'une ou l'autre des Villes Anséatiques serait amenée à augmenter le chiffre des droits qu'elle prélève actuellement sur les produits Français, le Gouvernement de Sa Majesté l'Empereur des Français se réserve la faculté de dénoncer le présent traité à l'égard de cette même Ville Anséatique.

Art. 24. Pendant la durée du présent traité la propriété des marques de fabrique et de commerce, sous quelque forme ou nom que ce soit, ainsi que des étiquettes des marchandises et emballages de toute espèce, appartenant aux sujets et citoyens de l'une ou l'autre des Hautes Parties contractantes, sera réciproquement protégée. ¶ Toute contrefaçon, imitation ou emploi abusif des dites marques, étiquettes et emballages pourra être poursuivie devant les tribunaux compétents par les parties lésées ou leurs ayants-droits. ¶ Pour jouir de la protection stipulée par le premier alinéa du présent article, les sujets et citoyens des Hautes Parties contractantes devront fournir aux tribunaux compétents la preuve d'avoir fait le dépôt des marques, étiquettes et emballages qui leur appartiennent, savoir: Les sujets Français dans les Villes Anséatiques au tribunal de commerce de chacune d'elles; et les citoyens des Villes Anésatiques en France au greffe du tribunal de commerce ou du Conseil des Prud'hommes de la Seine. ¶ Quant aux dessins et modèles industriels appartenant aux sujets et citoyens de l'une et l'autre des Hautes Parties contractantes, ils jouiront réciproquement de la protection que les lois respectives accordent actuellement ou accorderont par la suite aux dessins et modèles industriels des nationaux.

Art. 25. Le présent traité restera en vigueur pendant douze années à partir de sa mise à exécution. Dans le cas où ni les Sénats des Villes libres et Anséatiques, soit collectivement, soit séparément, ni Sa Majesté l'Empereur des Français, n'auraient notifié douze mois avant la fin de la dite période, son intention d'en faire cesser les effets, il demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une des Hautes Parties contractantes l'aura dénoncé. ¶ Les Hautes Parties contractantes se réservent la faculté d'intro-

duire, d'un commun accord, dans le présent traité, les modifications qui ne seraient pas en opposition avec son esprit ou ses principes.

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Art. 26. Le présent traité recevra son application, tant en France que dans les Villes Anséatiques, en même temps que le traité de commerce, conclu le 2 Août 1862 entre la France et le Zollverein. ¶ Il sera ratifié, et les ratifications en seront échangées à Paris dans le délai de trois mois, ou plutôt, si faire se peut, et simultanément avec celles de la Convention relative à la propriété littéraire et artistique, conclue à la date de ce jour entre les Hautes Parties contractantes. ¶ En foi de quoi les Plénipotentiaires respectifs ont signé le présent traité en quadruple expédition et y ont apposé le cachet de leurs armes. ¶ Fait à Hambourg le 4 Mars de l'année mil huit cent soixante-cinq.*)

Merck. (L. S.) *Geffcken.* (L. S.) *de Clercq.* (L. S.)

No. 1848.

HANSESTÄDTE und **FRANKREICH**. — Schlussprotokoll zu dem vorstehenden Vertrag. —

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Au moment de procéder à la signature du traité de commerce et de navigation ainsi que de la convention littéraire conclus à la date de ce jour entre les Villes libres et Anséatiques et la France, les Plénipotentiaires soussignés ont énoncé les réserves et déclarations suivantes:

I. En ce qui concerne le traité de commerce et de navigation.

A. Quant à l'article 1, il a été entendu que ses dispositions ne devaient pas avoir pour effet de priver les Gouvernements des Hautes Parties contractantes du droit d'appliquer aux sujets et citoyens respectifs les lois et réglements de police, qui sont actuellement ou seront à l'avenir en vigueur, de part et d'autre, sur les voyageurs, les personnes sans ressources et les gens sans aveu.

B. Il est également entendu que tant que la stipulation de la loi Hambourgeoise du 28 Décembre 1864, qui impose aux étrangers l'obligation de fournir caution pour les déclarations de douane en transit continuera de subsister, les Français resteront soumis à l'accomplissement de cette formalité.

C. On adoptera de part et d'autre comme base fixe pour la perception des droits de navigation et de la taxe de compensation le rapport suivant entre le last et le tonneau Français, savoir:

1 last de commerce de Hambourg (6000 livres) = 2 tonneaux Français,

1 last de Lubeck et de Brême (4000 livres) = 1 $^1/_3$ tonneaux Français.

D. Le Plénipotentiaire Français a déclaré que son Gouvernement a l'intention de dispenser par mesure générale à partir de la mise en vigueur du traité de commerce, conclu le 2 Août 1862 entre la France et le Zollverein, les im-

*) Die unter demselben Datum abgeschlossene „literarische Convention" ist im Wesentlichen gleichen Inhaltes mit den zwischen Frankreich und anderen Staaten eingegangenen Verträgen. Vergl. Staatsarchiv No. 3 und No. 439.

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portateurs étrangers de l'obligation de joindre à leurs expéditions les certificats d'origine et les factures, prévus par les articles 13 et 14 de ce traité.

E. Le Plénipotentiaire de Sa Majesté l'Empereur des Français a déclaré en outre que son Gouvernement était disposé à étendre aux expéditions internationales par chemins de fer, originaires ou à destination des Villes Anséatiques, le bénéfice de la convention spéciale sur le service des chemins de fer, signée à Berlin le 2 Août 1862, dès que, conformément à l'article 21 de cette convention, le Zollverein et les Villes Anséatiques se seront concertées avec la France sur les formes de l'accession des dites Villes.

F. Pour jouir de l'immunité des droits de patente, stipulée par l'article 16 du traité, les voyageurs de commerce Français devront être munis d'un certificat de patente conforme au modèle ci-joint et les voyageurs de commerce des Villes Anséatiques d'un acte de légitimation qui sera délivré conformément aux modèles ci-joints sous la lettre *A.* pour les fabricants ou marchands et sous la lettre *B.* pour les commis-voyageurs.

Ces documents seront valables pour le cours de l'année pour laquelle ils ont été expédiés. Ils présenteront le signalement et la signature du porteur et seront revêtus du sceau ou cachet de l'autorité compétente qui les a délivrés. ¶ Sur l'exhibition de ces documents les voyageurs de commerce respectifs après que leur identité aura été reconnue, obtiendront de l'autorité compétente de l'autre État, savoir dans les Villes Anséatiques une patente modèle *C.*, en France une patente modèle II. Les voyageurs de commerce Français seront tenus de se munir de la patente modèle *C.* dans chacune des Villes Anséatiques, qu'ils parcourront pour leurs affaires, sans être, de ce chef, assujétis à aucune formalité ou taxe autre que celles qui sont imposées aux citoyens et sujets de chacune des Villes Anséatiques voyageant pour leur commerce.

G. Pour assurer l'exécution de l'article 17 du traité qui autorise l'admission réciproque en franchise des échantillons importés par des voyageurs de commerce des deux pays, il a été convenu ce qui suit:

1⁰ Chacun des États contractants désignera sur son territoire les bureaux ouverts à l'importation ou à la réexportation des échantillons précités. La réexportation pourra également avoir lieu par un bureau autre que celui d'importation.

2⁰ A l'importation, on devra fixer le montant des droits à acquitter pour ces échantillons, montant qui devra ou être déposé en espèces ou dûment cautionné.

3⁰ Afin de bien constater leur identité, les échantillons seront, autant que possible, marqués par l'apposition de timbres, de plombs ou de cachets, le tout sans frais.

4⁰ Le bordereau qui sera dressé de ces échantillons et dont les États contractants auront à déterminer la forme, devra contenir:

a) l'énumération des échantillons importés, leur espèce et les indications propres à faire reconnaître leur identité;

b) l'indication du droit qui frappe les échantillons ainsi que la mention que le montant des droits a été acquitté en espèces ou cautionné;

c) l'indication de la manière dont les échantillons ont été marqués;

d) la fixation du délai à l'expiration duquel le montant du droit payé d'avance sera définitivement acquis à la douane, ou, s'il a été cautionné, réclamé à la personne garante, à moins que la preuve de la réexportation des échantillons ou leur réintégration en entrepôt ne soit fournie. Ce délai ne devra pas dépasser une année.

5⁰ Lorsque avant l'expiration du délai fixé (4 *d.*) les échantillons seront présentés à un bureau ouvert à cet effet, pour être réexportés ou réintégrés en entrepôt, ce bureau devra s'assurer que les objets dont la réexportation doit avoir lieu sont identiquement les mêmes que ceux présentés à l'importation. Lorsqu'il n'y aura aucun doute à cet égard le bureau constatera la réexportation ou la réintégration en entrepôt et restituera le montant des droits déposés en espèces à l'entrée ou prendra les mesures nécessaires pour décharger la caution.

II. En ce qui concerne la convention littéraire.

A) Il est convenu que par le fait de la mise à exécution de la convention littéraire signée à la date de ce jour avec les trois Villes Anséatiques, la convention spéciale relative au même objet conclue le 2 Mai 1856 entre la France et la Ville libre de Hambourg sera considérée comme nulle et non avenue.

B) En présence de la situation particulière créée entre la France et la Ville libre de Hambourg relativement à la protection des œuvres d'esprit et d'art par ce même traité du 2 Mai 1856, situation que les dispositions arrêtées à la date de ce jour ont pour unique objet de confirmer et d'étendre, il demeure entendu:

1⁰ que les stipulations de l'article 7 ne sont applicables qu'aux seules Villes de Lubeck et de Brême;

2⁰ que le délai après lequel la vente des réimpressions et reproductions indiquées dans ce même article 7 ne pourra avoir lieu, demeure fixé pour les deux Villes précitées au 1 Septembre prochain;

3⁰ que les libraires et éditeurs de musique des Villes de Lubeck et de Brême devront, d'ici au 1 Septembre prochain, se conformer aux prescriptions suivantes pour l'inventaire et l'estampillage des exemplaires d'ouvrages contrefaits ou réimprimés qu'ils auront en magasin à la date du 1. Juillet de cette année, savoir:

aa) Chaque libraire ou éditeur de musique de Lubeck et de Brême sera tenu de remettre à la Direction de Police de sa résidence, avant le 1. Septembre prochain, un inventaire exact et détaillé des ouvrages Français contrefaits ou réimprimés tombant sous l'application de l'article 7 précité et qu'il possédera au moment de la mise en vigueur des stipulations arrêtées à la date de ce jour.

bb) Ces inventaires devront être certifiés sincères et véritables par une déclaration sous serment.

cc) Chaque exemplaire des ouvrages ainsi inventoriés sera, par les soins de l'autorité que les Sénats de Lubeck et de Brême auront désignée

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à cet effet, revêtus d'une estampille ou d'un timbre spécial au domicile des libraires et éditeurs intéressés.

dd) Quiconque, dans les deux Villes précitées, mettrait en vente ou exposerait (Feilhalten) après la date du 1. Septembre, des exemplaires non inventoriés ni estampillés ou timbrés des dites contrefaçons ou réimpressions illicites, encourrait les pénalités établies par les lois et ordonnances sur la protection des œuvres d'esprit et d'art.

Le présent protocole, qui sera ratifié, de part et d'autre, simultanément avec les deux traités auxquels il se rapporte, a été dressé en quadruple expédition à Hambourg le 4 Mars de l'année mil huit cent soixante-cinq.

Merck. (L. S.) *Geffcken.* (L. S.) *de Clercq.* (L. S.)

No. 1849.

HAMBURG. — Mittheilung des Senats an die Bürgerschaft, betreffend den mit der Kaiserlich Französischen Regierung abgeschlossenen Handels- und Schifffahrtsvertrag. —

Hamburg, den 19. April 1865.

No. 1849. Hamburg, 19. April 1865.

Während seit dem vierzehnten Jahrhundert der alten Deutschen Hansa von den Königen von Frankreich vielfache commerzielle Vortheile eingeräumt waren, und die drei jetzt noch übrigen Hansestädte in mehreren Verträgen ihre Handels- und Schifffahrtsbeziehungen zu Frankreich geordnet haben, hat Hamburg allein erst im Jahre 1769 einen „Traité de marine et de commerce“ mit Frankreich geschlossen, welcher 1789 auf 20 Jahre erneuert, aber 1809 abgelaufen ist. ¶ Seitdem sind alle, seit 1825 ausserordentlich oft erneuerten Versuche, wieder zu einem vertragsmässigen Verhältnisse mit Frankreich zu gelangen, vergeblich gewesen, was hauptsächlich seinen Grund darin hatte, dass die beiden Staaten in handelspolitischen Beziehungen von ganz verschiedenen Grundsätzen ausgingen. Während Frankreich sich zu einem strengen Protections- und Differentialzoll-System bekannte, verfolgte Hamburg das Freihandels-System; während Hamburgische Schiffe in den Französischen Häfen am mindest begünstigt waren, stand die Französische Flagge in Hamburgischen Häfen der meist begünstigten gleich. Erst der jetzigen Kaiserlichen Regierung war es möglich, mit dem alten Systeme zu brechen und sich zu successiven Concessionen zu entschliessen. Dadurch ward zunächst der Vertrag mit Grossbritannien in's Leben gerufen, welchem Verträge mit Belgien, Italien, der Schweiz, neuerdings mit Schweden und Norwegen, hauptsächlich aber mit dem Zollvereine folgten. ¶ Sobald es im Herbste des Jahres 1860 bekannt ward, dass die Kaiserlich Französische Regierung einen besonderen Bevollmächtigten zu Verhandlungen mit dem Zollvereine nach Berlin senden werde, traf der Senat im Vereine mit den Hohen Senaten von Lübeck und Bremen einleitende Schritte, um gleichzeitig mit dem Zollvereine einen Hanseatisch-Französischen Handels- und Schifffahrts-Vertrag zu erlangen. Obwohl die Vorbesprechungen ziemlich weit gediehen, so erklärte die Kaiserlich Französische Regierung doch, nicht eher mit den Hansestädten formelle Verhandlungen

beginnen zu wollen, bis der Vertrag mit dem Zollvereine von allen Mitgliedern desselben unbedingt angenommen sei, was bekanntlich erst im October vorigen Jahres geschehen ist. ¶ Im December v. J. hat darauf die Kaiserlich Französische Regierung den Verhändler der Zollvereins-Verträge, den bevollmächtigten Minister, Herrn de Clercq, hierher gesandt, mit welchem die in den Anlagen 1 bis 3 enthaltenen Verträge nebst einem Schlussprotokoll verhandelt und unterzeichnet sind. Dieselben bestehen aus einem Handels- und Schifffahrtsvertrage und einer Convention zum Schutze gegen den Nachdruck. In letzterer Beziehung hatte Hamburg bereits seit 1856 eine vertragsmässige Vereinbarung mit Frankreich, welche in allen wesentlichen Beziehungen beibehalten ist, nur einige den Hansestädten günstige Zusätze erhalten hat und nunmehr auf alle drei Städte ausgedehnt ist. ¶ Das Hauptaugenmerk der Hansestädte musste natürlich darauf gerichtet sein, eine möglichste Befreiung ihres Handels und ihrer Schifffahrt von den Differentialzöllen, welche in Frankreich auf beiden lasten, zu erreichen. Leider! hat dies nur in der directen Fahrt geschehen können, da Frankreich wie allen anderen Staaten, auch den Hansestädten, eine Heruntersetzung der hohen Tonnengelder für die indirecte Fahrt versagt hat. Der Kaiserlich Französische Verhändler hat indess mehrfach die auch durch andere officielle Actenstücke bestätigte Versicherung ertheilt, dass im Wege der Gesetzgebung in nicht ferner Zeit der differentiellen Begünstigung der Französischen Flagge in der indirecten Fahrt ein Ziel gesetzt werden werde. In der directen Fahrt sind dagegen die Schifffahrtsabgaben von Frcs. 4. 50 Cents auf 50 Cents pr. tonneau ermässigt, und ist zugleich stipulirt worden, dass eine wesentliche Herabsetzung der Tonnengelder in Lübeck und Hamburg — Bremen hat das Tonnengeld für Französische Schiffe in der directen Fahrt ganz aufgehoben und dagegen schon jetzt das entsprechende Zugeständniss erhalten — eine gleiche Herabsetzung in den Französischen Häfen zur Folge haben und Frankreich jederzeit bereit sein werde, das Tonnengeld für diejenige der Städte, welche ein Gleiches zu thun erbötig sein würde, gänzlich aufzuheben. ¶ Ausserdem ist den Schiffen der Hansestädte zugestanden, dass sie aus allen Zollvereinshäfen, als seien sie in directer Fahrt begriffen, Waaren ausführen können, jedoch gegen 1 Frc. Tonnengeld pr. tonneau, da die Zollvereinsschiffe selbst diesen Satz zu bezahlen haben. In den Schifffahrtsvertrag mit dem Zollvereine war schon früher die für die Hansestädte sehr wichtige Bestimmung aufgenommen worden, dass die Zollvereinsschiffe, aus den Hanseatischen Häfen an der Elbe und Weser kommend, behandelt werden sollen, als wenn dieselben Zollvereinshäfen seien. ¶ Im Verkehr zwischen den Hansestädten und Algier geniessen die Hamburgischen Schiffe eine Reduction von 50 pCt. von den gültigen Tonnengeldern und im Verkehre mit den Französischen Colonien die Rechte der meist begünstigten europäischen Nation. ¶ In allen übrigen Beziehungen ist der Schifffahrt der Hansestädte durch Art. 4 Gleichstellung mit den Nationalen in Frankreich gesichert. Die eigentliche Küstenschifffahrt, d. h. die Beförderung von Waaren, welche in einem Hafen geladen und nach einem anderen Hafen desselben Landesgebietes bestimmt sind, und wozu auch der Verkehr zwischen Frankreich und Algier gerechnet wird, hat Frankreich den Hansestädten gegenüber, wie allen Staaten, mit denen es Verträge geschlossen, seinen Nationalschiffen

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vorbehalten. Dagegen ist den Hansestädten im Art. 8 gewährt, dass, wenn ein Hanseatisches, nach Frankreich bestimmtes Schiff einen oder mehrere Zwischenhäfen anläuft, dasselbe die Vortheile der directen Fahrt nicht verliert, wenn das Schiff in diesen Zwischenhäfen keine Ladung einnimmt; ferner ist im Art. 9 stipulirt, dass die Schiffe der Hansestädte, gegen Reciprocität, wenn sie von einem Französischen Hafen nach einem anderen gehen, um dort ihre Ladung ganz oder theilweise zu löschen oder daselbst ihre Ladungen einzunehmen, resp. zu vervollständigen, nur einmal Tonnengeld bezahlen sollen. ¶ Vollständige Abgabenfreiheit ist gegenseitig den Schiffen zugesichert, welche in Ballast ein- und ausgehen, sowie denen, welche im Nothfalle einlaufen. ¶ Die Erhebung der Schifffahrtsabgaben soll nach der Wahl des Capitains entweder nach der in seinen Schiffspapieren angegebenen Tragfähigkeit oder nach dem Vermessungs-Verfahren, welches in dem Hafen, wo sich das Schiff befindet, üblich ist, erfolgen, und ist in dem Schlussprotokoll sub I. C eine Vereinbarung darüber getroffen, dass die Hamburger Commerzlast von 6000 Pfd. gleich 2 Franz. Tonnen gerechnet wird. ¶ Was den Handel betrifft, so konnte Frankreich für die Ausdehnung seines herabgesetzten Tarifes auf alle Hanseatischen Erzeugnisse bei den unbedeutenden Waarenzöllen, welche die Hansestädte erheben, nicht wohl eine noch grössere Reduction derselben oder gänzliche Befreiung einzelner Französischer Importartikel fordern. Es verlangte aber eine Zusicherung, dass die gegenwärtigen Eingangszölle, so wie die Accise für Französische Waaren während der Dauer des Vertrages nicht sollten erhöht werden dürfen, worauf ebensowenig eingegangen werden konnte, als auf das eventuelle Verlangen, dieselben nicht über einen bestimmten Betrag, z. B. 2—3 pCt., während der Dauer des Vertrages zu steigern; denn so gewiss bei dem Charakter der Hanseatischen Handelspolitik nicht eine Erhöhung, sondern eher eine weitere Herabsetzung der Einganszölle zu gewärtigen ist, so konnten sich die Städte doch nicht in der erwähnten Weise die Hände binden. Die Kaiserlich Französische Regierung liess schliesslich ihre Forderung fallen und begnügte sich mit dem Vorbehalte, im Falle der Erhöhung der Abgaben von Französischen Erzeugnissen, den Vertrag für die betreffende Stadt kündigen zu dürfen. Dieser Vorbehalt ist gänzlich unbedenklich, denn, wenn eine derartige Erhöhung wider Erwarten stattfinden sollte, so würde sie, wenn sie, wie es wahrscheinlich ist, nur unbedeutend wäre, die Französische Regierung sicherlich nicht zur Kündigung veranlassen. ¶ Dagegen konnte die Gewährung des neuen Französischen Tarifs mit dem Zollverein ausschliesslich für Hanseatische Erzeugnisse für den Handel der Hansestädte, welcher sich wesentlich mit dem Vertrieb fremder Waaren beschäftigt, nur von verhältnissmässig untergeordnetem Werthe sein. Es musste verlangt werden, dass alle Deutschen, mindestens alle Zollvereins-Erzeugnisse aus Hanseatischen Häfen zu gleichen Bedingungen in Frankreich eingeführt werden dürften, wie die einheimischen Producte. Frankreich zeigte sich nicht allein bereit, hierauf einzugehen, sondern es hat in dem Art. 8 die noch weitergehenden Zugeständnisse gemacht, dass Erzeugnisse jeder Art und jeden Ursprunges direct von einem Hanseatischen Hafen in Frankreich und Algier zu den gleichen Bedingungen, als unter Französischer Flagge eingeführt werden können. Es verschloss sich ferner auch nicht den vielfachen Inconvenienzen,

welche namentlich für die Hansestädte aus dem Festhalten an den im Art. 13 und 14 des Zollvereinsvertrages stipulirten Ursprungszeugnissen sich ergeben müssten, und im Laufe der Unterhandlung entschloss sich die Kaiserliche Regierung, den diesseitigen dringenden Vorstellungen Gehör zu geben und die Ursprungszeugnisse gänzlich abzuschaffen, wie dies im Schlussprotokoll I. D. ausdrücklich zugesichert ist. ¶ Eine fernere Concession hinsichtlich der Ausdehnung des Begriffes der directen Einfuhr ergab sich aus der oben erwähnten Gleichstellung zollvereinsländischer Häfen mit den Hanseatischen. Wenn ein Hamburgisches Schiff, von Danzig nach Bordeaux gehend, nicht mehr Tonnengeld bezahlen sollte, als ein Preussisches in gleicher Fahrt, so musste diese Gleichstellung auch auf die Ladung ausgedehnt werden; es durften also die Waaren, welche ein Hanseatisches Schiff aus einem Zollvereinshafen nach Frankreich importirte, nicht höher belastet werden, als wenn sie aus einem Hanseatischen Hafen kommen. Dies ist durch den Art. 15 festgestellt. ¶ Vom 1. Juli 1865 an können also Hanseatische Schiffe Erzeugnisse jeder Art und jeden Ursprungs von Hanseatischen oder Zollvereinshäfen nach Frankreich unter denselben Bedingungen einführen, als wenn die Einfuhr unter der Landesflagge statthat. Eine Reservation besteht nur noch für die sogenannten marchandises d'entrepôt, d. h. namentlich Colonialwaaren, welche bei der Einfuhr aus den Ursprungsländern günstiger behandelt werden, als bei indirectem Bezug. Im letztern Falle bezahlen aber auch die Französischen Schiffe dieselbe Surtaxe, so dass also z. B. Kaffee, aus Hamburg nach Havre geschickt, nicht mehr unter Hamburgischer, als unter Französischer Flagge bezahlt. ¶ Was die Waareneinfuhr nach den Französischen Colonien anbetrifft, so sichert Art. 11 den Hansestädten die Rechte der meist begünstigten europäischen Nation. Diese Beschränkung auf die europäischen Nationen hat den Grund, dass den benachbarten Colonien für den Localverkehr gewisse Vergünstigungen gewährt sind, welche aus den besonderen nachbarlichen Verhältnissen hervorgehen. ¶ Die Stipulationen über die gegenseitige Zulassung von Handlungsreisenden und deren Proben, so wie der im Schlussprotokoll I. E. vorgesehene Anschluss an die Zollvereinsconvention über internationale Eisenbahnsendungen können nur der Förderung des freien Verkehrs entsprechend erachtet werden, und ebenso ist der Art. 18, welcher den Handels-Associationen gegenseitig Gerichtsstand sichert und schon mit Belgien vereinbart ist, nur als im gemeinsamen Interesse begründet aufzufassen. ¶ Endlich setzt Art. 22 in der unbedingtesten Fassung fest, dass alle Privilegien, Begünstigungen und Freiheiten in Betreff von Handel und Schifffahrt, welche von den contrahirenden Theilen einem dritten Staate gewährt werden, sofort auf ihre beiderseitigen Unterthanen ausgedehnt werden müssen, so dass die Hansestädte während der Dauer des Vertrages die Rechte der meist begünstigten Nationen besitzen. ¶ Als Gegenleistungen für die gemachten Zugeständnisse hat Frankreich, welches sich in Bezug auf seinen Handel und seine Schifffahrt namentlich in Hamburg im Vollgenusse aller der Rechte bereits befand, welche das Freihandels-System ohne Rücksicht auf Gegenleistungen allen fremden Nationen gleichmässig gewährt, verlangt: völlige Gleichstellung seiner Staatsangehörigen mit den Nationalen in Bezug auf den Betrieb von Handel und Gewerbe, Befreiung vom Dienste im

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Militair und in der Bürgergarde und Schutz gegen Nachahmung von Fabrikzeichen. ¶ Das erste Zugeständniss anlangend, so haben die Hamburgischen Staatsangehörigen bereits seit 1790 in Bezug auf Handel und Gewerbe das unbedingte Niederlassungsrecht in Frankreich und sind daselbst keinen höheren Abgaben unterworfen, als die Nationalen. Durch die im Anfange dieses Jahres vollzogene Umgestaltung der gewerblichen und bürgerrechtlichen Verhältnisse in Hamburg ist es ermöglicht, die beanspruchte Reciprocität zu gewähren. Um die unbedingte Gleichstellung der Franzosen durchzuführen, wird es allerdings erforderlich sein, für dieselben von der in dem Artikel 2 des Gewerbegesetzes vom 7. November 1864 vorgeschriebenen Erhebung einer jährlichen Recognition für Nicht-Staatsangehörige, welche in Hamburg ein selbständiges Gewerbe betreiben wollen, abzusehen. Dagegen ist von Frankreich anerkannt, dass die Befugniss eines Fremden, Transito zu declariren, einen besonderen Grad von Vertrauenswürdigkeit voraussetzt, und es ist deshalb in Alinea I. B. des Schlussprotokolls vorgeschrieben, dass die Franzosen der durch das Gesetz vom 28. December 1864 bestimmten Caution unterworfen bleiben. ¶ Ausserdem hat die Französische Regierung dem diesseitigen Wunsche nachgegeben, durch eine ausdrückliche Erklärung festzustellen, dass die Stipulationen des Artikels 1 die polizeilichen Hoheitsrechte der beiden contrahirenden Theile über solche Fremde, welche sich nicht dauernd niederlassen wollen, sowie über diejenigen, welche keine Subsistenzmittel haben oder sich nicht genügend ausweisen können, unberührt lassen. ¶ Das zweite Zugeständniss ist die Befreiung der in Hamburg sich aufhaltenden Franzosen vom Dienste im Bürgermilitair. Das darauf gerichtete Verlangen begründet sich wieder auf eine gleiche Befreiung der Hanseatischen Staatsangehörigen in Frankreich. Da dieselbe in Lübeck und Bremen stets bestanden hat und auch hier bereits vielfach als empfehlenswerth bei einer Reorganisation des Bürgermilitairs anerkannt worden ist, durfte sie nach der Ansicht des Senates kein Hinderniss des Vertrags-Abschlusses werden. ¶ Was endlich den in dem Artikel 24 stipulirten Schutz der Waarenbezeichnungen anlangt, so erklärte die Kaiserlich Französische Regierung gleich beim Eingange der Verhandlungen, dass sie eine derartige Stipulation zur unerlässlichen Bedingung des Vertrages mache, und es war ein Eingehen auf diese Forderung um so weniger zu vermeiden, als, abgesehen von der Frage des guten Glaubens, welcher jede derartige betrügliche Nachahmung verbietet, schon bisher Firmen und Etiketten mit den Namen der Fabrikanten von unsern Gerichten gegen Nachahmung geschüzt wurden, wie dies mehrfache Erkenntnisse des Nieder-, Handels-, Ober- und Ober-Appellations-Gerichtes beweisen. Der gegenwärtige Vertrag hat also durch Artikel 24 kein neues Recht geschaffen, sondern das bestehende nur auf die Fabrikmarken und Etiketten ohne Namen ausgedehnt, dagegen aber den Schutz, der bisher unbedingt gewährt war, an bestimmte Voraussetzungen und Bedingungen geknüpft. Darnach ist nicht die Regierung oder gar deren officieller Vertreter berechtigt oder verpflichtet, gegen eine betrügliche Nachahmung einzuschreiten, sondern dieselbe soll nur im Civilwege von den beschädigten Parteien oder ihren Bevollmächtigten verfolgt werden können, und um diese Verfolgung einzuleiten, muss der Beweis geliefert werden, dass die klägerische Partei die

Marken, Etiketten oder Verpackungen, wegen deren Nachahmung sie sich beschwert, bei den vertragsmässig bestimmten Autoritäten deponirt hat. Die Verbindlichkeit des Französischen Fabrikanten, seine Fabrikzeichen bei dem Handelsgerichte zu deponiren, macht allen Streitigkeiten über die bona und mala fides einer Nachahmung ein Ende und giebt zugleich allen hiesigen Fabrikanten derselben Branche die Möglichkeit, sich leicht die Gewissheit zu verschaffen, ob das betreffende Product des Französischen Concurrenten geschützt ist. ¶ Die weiter gehenden, sehr lange festgehaltenen Französischen Anforderungen, den gleichen Schutz auch auf Muster und Modelle auszudehnen — was eine förmliche Patentgesetzgebung vorausgesetzt hätte — sind abgelehnt, und ist im letzten Alinea des Artikels 24 nur dann ein Schutz zugesagt, wenn ein solcher den Einheimischen gewährt werden sollte. ¶ Hinsichtlich der literarischen Convention, welche, wie schon erwähnt, den Inhalt des bereits von Hamburg am 2. Mai 1856 mit Frankreich abgeschlossenen Vertrages auf die anderen beiden Hansestädte ausdehnt, ist nur noch hervorzuheben, dass sie an die Stelle früherer Zollreduction jetzt die gegenseitige Befreiung der Bücher in allen Sprachen, Kupferstiche, Lithographien, geographischen Karten, Musikalien, gestochenen Platten von Kupfer, Zinn, Zink, Stahl und Holz für Musikalien etc. etc. von allem Eingangszoll setzt. ¶ Wenngleich sich nicht verkennen lässt, dass durch den nunmehr abgeschlossenen Handels- und Schifffahrts-Vertrag noch nicht alle für die freie Verkehrsbewegung zwischen den beiden Staaten zu wünschen gewesenen Erleichterungen erlangt worden sind; so konnten doch die Hansestädte einentheils nicht erwarten, vorzugsweise Begünstigungen zu erlangen, welche die Kaiserlich Französische Regierung allen anderen seefahrenden Staaten für jetzt versagen zu müssen erklärt hatte, noch andererseits, weil nicht Alles zu erreichen stand, die wesentlichen Zugeständnisse zurückweisen, welche geboten wurden und namentlich die Zusicherung umfassen, dass auf die Hansestädte jede irgend einem dritten Staate in Bezug auf Handel und Schifffahrt eingeräumte Begünstigung ohne Weiteres ausgedehnt werden muss. ¶ Der Senat glaubt mit Sicherheit hoffen zu dürfen, dass der Hanseatische Handel und die Hanseatische Schifffahrt, welche sich unter den früheren Verträgen zu grosser Blüthe entwickelt hatten, auch durch den neuen Vertrag einen erfreulichen Aufschwung nehmen werden, und beantragt demgemäss bei der Bürgerschaft, es mitzugenehmigen:

> dass dem am 4. März d. J. zwischen den Hansestädten und Frankreich abgeschlossenen Handels- und Schifffahrtsvertrage, wie er in der Anlage 1 enthalten ist, ferner der an demselben Tage unterzeichneten literarischen Convention, Anlage 2, sowie dem zu beiden Verträgen gehörigen Schlussprotokolle, Anlage 3, die vorbehaltene Ratification ertheilt werde.

No. 1850.

ZOLLVEREIN und BELGIEN. — Handelsvertrag. —

No. 1850. Deutsch-belgischer Vertrag, 22. Mai 1865.

Seine Majestät der König von Preussen, sowohl für Sich und in Vertretung der Ihrem Zoll- und Steuersystem angeschlossenen souveränen Länder und Landestheile, nämlich: — — als im Namen der übrigen Mitglieder des Deutschen Zoll- und Handelsvereins, nämlich: — — einer Seits, und Seine Majestät der König der Belgier anderer Seits, in der Absicht, die Handels-Beziehungen zwischen den Zollvereinsstaaten und Belgien in endgültiger und vollständiger Weise zu regeln, haben zu diesem Zwecke zu Ihren Bevollmächtigten ernannt, nämlich: — — welche, nach Austausch ihrer in guter und gehöriger Form befundenen Vollmachten, über nachstehende Artikel übereingekommen sind:

Artikel 1. Die Unterthanen der Staaten des Zollvereins, welche in Belgien und die Belgier, welche in den Staaten des Zollvereins dauernd oder vorübergehend sich aufhalten, sollen daselbst in Beziehung auf den Betrieb des Handels und der Gewerbe die nämlichen Rechte geniessen und keinen höheren oder anderen Abgaben unterworfen werden, als die Angehörigen des in diesen Beziehungen am meisten begünstigten dritten Landes.

Art. 2. Die Boden- und Gewerbserzeugnisse Belgiens, welche in den Zollverein und die Boden- und Gewerbserzeugnisse der Staaten des Zollvereins, welche in Belgien eingeführt werden, sollen daselbst, sie mögen zum Verbrauch, zur Lagerung, zur Wiederausfuhr oder zur Durchfuhr bestimmt sein, der nämlichen Behandlung unterliegen und insbesondere keinen höheren oder anderen Abgaben unterworfen werden, als die Erzeugnisse des in diesen Beziehungen am meisten begünstigten dritten Landes. ¶ Sollte für das in Belgien raffinirte Französische Seesalz eine Ermässigung der Accise um mehr als 7 pCt. eintreten, so soll für das aus dem Zollverein herstammende, in Belgien raffinirte Salz auf der Stelle eine Ermässigung der Accise gewährt werden, welche um höchstens 7 pCt. geringer sein soll, als der für das Französische Seesalz bewilligte Rabatt.

Art. 3. Bei der Ausfuhr nach Belgien sollen im Zollverein, und bei der Ausfuhr nach dem Zollverein sollen in Belgien Ausgangsabgaben von keinen anderen Waaren und mit keinem höheren oder anderen Betrage erhoben werden, als bei der Ausfuhr nach dem in dieser Beziehung am meisten begünstigten dritten Lande.

Art. 4. Die Waarendurchfuhr nach und von Belgien soll im Zollverein und die Waarendurchfuhr nach und von dem Zollverein soll in Belgien von jeder Durchgangsabgabe frei sein, unbeschadet der besonderen Anordnungen in Beziehung auf Schiesspulver, Kriegswaffen und Salz.

Art. 5. Jede Begünstigung, jedes Vorrecht und jede Ermässigung in dem Tarife der Eingangs- oder Ausgangsabgaben, welche einer der hohen ver-

Sa Majesté le Roi de Prusse agissant tant en Son nom et pour les autres Pays et parties de Pays souverains compris dans Son système de douanes et d'impôts, savoir: — — qu'au nom des autres Membres de l'Association de douanes et de commerce Allemande (*Zollverein*), savoir: — — *d'une part* et Sa Majesté le Roi des Belges *d'autre part*, voulant régler d'une manière définitive et complète les relations commerciales entre les États du Zollverein et la Belgique, ont nommé à cet effet pour leurs Plénipotentiaires, savoir: — — lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

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Article 1. Les sujets des États du Zollverein en Belgique et les Belges dans les États du Zollverein, soit qu'ils s'y établissent soit qu'ils y résident temporairement, y jouiront, relativement à l'exercice du commerce et des industries, des mêmes droits et n'y seront soumis à aucune imposition plus élevée ou autre que les sujets de la nation la plus favorisée sous ces rapports.

Art. 2. Les produits du sol et de l'industrie de la Belgique qui seront importés dans le Zollverein, et les produits du sol et de l'industrie des États du Zollverein qui seront importés en Belgique, destinés, soit à la consommation, soit à l'entreposage, soit à la réexportation, soit au transit, seront soumis au même traitement et nommément ne seront passibles de droits ni plus élevés ni autres que les produits de la nation la plus favorisée sous ces rapports. ¶ Si les sels marins français raffinés en Belgique venaient à obtenir une réduction de plus de 7 pour cent sur le droit d'accise, il est convenu que le sel du Zollverein raffiné en Belgique jouira, à l'instant même, d'une réduction de l'accise qui ne pourra être inférieure à plus de 7 pour cent à la réfaction accordée aux sels marins français.

Art. 3. A l'exportation vers la Belgique il ne sera perçu dans le Zollverein et à l'exportation vers le Zollverein il ne sera perçu en Belgique d'autres ni de plus hauts droits de sortie qu'à l'exportation des mêmes objets vers le pays le plus favorisé à cet égard.

Art. 4. Les marchandises de toute nature venant de l'un des deux territoires ou y allant, seront réciproquement exemptes dans l'autre de tout droit de transit, sans préjudice du régime spécial concernant la poudre à tirer, les armes de guerre et le sel.

Art. 5. Toute faveur, toute immunité, toute réduction du tarif des droits d'entrée et de sortie que l'une des Hautes Parties contractantes accordera

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tragenden Theile einer dritten Macht zugestehen möchte, wird gleichzeitig und ohne Bedingung dem anderen zu Theil werden. ¶ Ferner wird keiner der vertragenden Theile ein Einfuhr- oder ein Ausfuhr-Verbot gegen den anderen in Kraft setzen, welches nicht gleichzeitig auf alle anderen Nationen Anwendung fände. ¶ Die vorstehende auf Ausfuhr-Verbote bezügliche Bestimmung kann den aus dem Bundesverhältnisse herrührenden Verpflichtungen der zum Zollvereine gehörenden Deutschen Bundes-Staaten keinen Eintrag thun. Werden aus dieser Veranlassung Verbote erlassen, so würde die Belgische Regierung die Ausfuhr derselben Gegenstände verbieten können.

Art. 6. Belgien tritt der Uebereinkunft bei, welche am 2. August 1862 zwischen dem Zollverein und Frankreich über die Zollabfertigung des internationalen Verkehrs auf den Eisenbahnen abgeschlossen ist. ¶ Sollte einer der vertragenden Theile grössere, als die in dieser Uebereinkunft festgesetzten Erleichterungen mit einem dritten Staate verabreden, so werden diese Erleichterungen auch auf den Verkehr mit dem andern Theile, unter Voraussetzung der Gegenseitigkeit, Anwendung finden.

Art. 7. Wer eine der nachfolgend genannten, im Zollvereine verfertigten Waaren in Belgien einführt, ist befugt, statt der Eingangs-Abgabe vom Werthe, den nachstehend bezeichneten Zollsatz zu entrichten, und zwar:

1) für Waaren von Wolle allein oder in Verbindung mit anderen Spinn-Materialien, mit Ausnahme der Indischen Kaschmir-Shawls und Schärpen, 260 Franken für 100 Kilogramme;

2) für Waaren aus Baumwolle und Seide, in welchen die Baumwolle überwiegt, 300 Franken für 100 Kilogramme.

Wird der Zollsatz nach dem Gewichte gewählt, so muss dies im Augenblick der Zolldeclaration erklärt werden.

Die nachstehend verzeichneten, aus dem Zollvereine herstammenden Waaren werden bei ihrer Einfuhr in Belgien zugelassen wie folgt und zwar:

	im Jahre 1865	vom 1. Juli 1866 ab
Steinkohlen für 1000 Kilo.	0,50 Fr.	frei
Eisen- und Stahlwaaren für 100 Kilo. .	5,00 Fr.	4,00 Fr.
Saatöl	frei	
Gold- und Silberblatt	frei	
Papier, mit Ausnahme der Papiertapeten für 100 Kilo.	4,00 Fr.	
Chemische Fabrikate, nicht besonders genannt	frei	
Strumpf-, Posamentir- und Bandwaaren von Baumwolle oder Leinen . . .	10 Proc. vom Werthe.	

Art. 8. Bei der Einfuhr in den Zollverein werden die nachstehend genannten Erzeugnisse Belgiens zugelassen werden, wie folgt, nämlich:

Steinkohlen, Koaks und geformte Kohlen . . . zollfrei.

Chemische Zündhölzer . . . . zollfrei.

à une tierce Puissance, sera immédiatement et sans condition étendue à l'autre. ¶ De plus aucune des Parties Contractantes ne soumettra l'autre à une prohibition d'importation ou d'exportation qui ne serait pas appliquée en même temps à toutes les autres nations. ¶ La disposition qui précède sur les prohibitions à la sortie ne déroge point aux obligations que les actes de la Confédération germanique imposent aux États allemands qui composent le Zollverein. S'il intervenait de ce chef des prohibitions, le Gouvernement belge pourrait prohiber la sortie des mêmes objets.

Art. 6. La Belgique accède à la convention conclue le 2 Août 1862 entre le Zollverein et la France relativement au service international des chemins de fer dans ses rapports avec la douane. ¶ Si l'une des Parties Contractantes convenait avec un tiers État de facilités plus grandes que celles qui sont stipulées dans cet arrangement, ces facilités s'appliqueraient moyennant réciprocité aux relations avec l'autre Partie.

Art. 7. A l'entrée en Belgique, l'importateur aura la faculté de payer, au lieu des droits ad valorem,

1⁰ pour les tissus de laine pure ou mélangée de fabrication du Zollverein autres que les châles et écharpes de cachemire des Indes, le droit de frs. 260 par 100 kilogr.;

2⁰ pour les tissus de soie et coton, coton dominant, de même fabrication, le droit de frs. 300 par 100 kilogr.

L'importateur devra faire connaître son option pour les droits spécifiques au moment même de la déclaration en douane.

Les marchandises énumérées ci-après, originaires du Zollverein, seront tarifées comme il suit à leur entrée en Belgique, savoir:

	1865.	1. Juillet 1866.
Charbons de terre par 1000 kilo.	$0,_{50}$ frs.	libres.
Fer et acier ouvrés „ 100 „	$5,_{00}$ -	$4,_{00}$ frs.
Huiles de graines	libres.	
Or et argent battus	libres.	
Papiers autres que papiers à meubler par 100 kilo.	4 frs.	
Produits chimiques non dénommés	libres.	
Bonneterie, passementerie et rubanerie de coton et de lin par 100 frs.	10 frs.	

Art. 8. A l'entrée dans le Zollverein, les objets d'origine belge ci-après énumérés seront admis, comme il suit, savoir:

Houilles, cokes et briquettes de charbon . .	libres.
Allumettes chimiques	libres

No. 1850. Deutsch-belgischer Vertrag, 22. Mai 1865.

Mehl, geschrotene oder geschälte Körner, Graupe, Grütze, Malz	zollfrei.
Leinengarn, einfaches, rohes, mit der Hand gesponnen	zollfrei.
Glas, weisses, gepresst, geschliffen, abgerieben, geschnitten oder gemustert vom Ctr.	2 Rthlr. 20 Sgr.
Glas, farbiges, bemaltes oder vergoldetes ohne Unterschied der Form; Glaswaren in Verbindung mit anderen Materialien (mit Ausnahme von edlen Metallen, echt vergoldetem oder versilbertem Metall, Schildpatt, echten Perlen, Korallen oder Steinen) vom Ctr.	4 Rthlr. — Sgr.
Brüsseler und dänisches Handschuhleder, Corduan, Marokin, Saffian und alles gefärbte und lackirte Leder vom Ctr.	6 - 20 -

Art. 9. Der gegenwärtige Vertrag soll am 1. Juli 1865 in Kraft treten und bis zum 30. Juni 1875 in Kraft bleiben. ¶ Im Falle keiner der vertragenden Theile zwölf Monate vor dem Ablauf dieses Termins seine Absicht, die Wirkung des Vertrages aufhören zu lassen, dem anderen kundgegeben haben sollte, soll derselbe bis zum Ablaufe eines Jahres von dem Tage ab in Geltung bleiben, an welchem der eine oder der andere der vertragenden Theile denselben gekündigt hat. ¶ Der gegenwärtige Vertrag soll ratificirt und es sollen die Ratifications-Urkunden sobald als möglich in Berlin ausgetauscht werden. ¶ Zu Urkund dessen haben die beiderseitigen Bevollmächtigten denselben unterzeichnet und ihre Siegel beigedruckt.

So geschehen zu Berlin, den 22. Mai 1865.

Bismarck-Schönhausen. *Nothomb.* *Pommer-Esche.* *Philipsborn.* *Delbrück.*
(L. S.) (L. S.) (L. S.) (L. S.) (L. S.)

No. 1851.

ZOLLVEREIN und GROSSBRITANNIEN. — Handels-Vertrag. —

No. 1851. Deutsch-englischer Vertrag, 30. Mai 1865.

Seine Majestät der König von Preussen, sowohl für Sich und in Vertretung der Ihrem Zoll- und Steuersystem angeschlossenen souverainen Länder und Landestheile, nämlich: — — als im Namen der übrigen Mitglieder des Deutschen Zoll- und Handelsvereins, nämlich: — — einer Seits, und Ihre Majestät die Königin des Vereinigten Königreiches von Grossbritannien und Irland, anderer Seits, von dem gleichen Wunsche geleitet, die Handels-Beziehungen zwischen dem Zollvereine und dem Vereinigten Königreiche von Grossbritannien und Irland und den ihm angehörenden Gebieten zu regeln und auszudehnen, haben beschlossen, einen Vertrag zu diesem Zwecke abzuschliessen und zu Ihren Bevollmächtigten ernannt, nämlich: — — welche, nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten, die nachstehenden Artikel vereinbart und abgeschlossen haben:

No. 1850. Deutsch-belgischer Vertrag, 22. Mai 1865.

Farine, grains perlés et mondés, orge mondé, gruaux, drèche	libres.
Fil de lin ou de chanvre, simple, écru, filé à la main	libres.
Verre blanc pressé, poli, dépoli, taillé, moulé, par quintal	2 Rthlr. 20 Sgr.
Verre de couleur, peint ou doré, sans distinction de forme; ouvrages en verre en combinaison avec d'autres matières (à l'exception de métaux précieux, de métaux finement dorés ou argentés, d'écaille, de perles fines, de corail ou pierres fines) par quintal	4 Rthlr. — Sgr.
Peaux de Bruxelles et de Danemark apprêtées pour la ganterie, cordouan, maroquin et toutes espèces de peaux teintes et vernies . . . par quintal	6 - 20 -

Art. 9. Le présent traité entrera en vigueur au premier juillet 1865 et le restera jusqu'au 30 juin 1875. ¶ Dans le cas où aucune des Parties Contractantes n'aurait notifié douze mois avant l'échéance de ce terme son intention d'en faire cesser les effets, le traité demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Parties Contractantes l'aura dénoncé. ¶ Le présent traité sera ratifié et les ratifications en seront échangées à Berlin le plus tôt possible. ¶ En foi de quoi les Plénipotentiaires respectifs l'ont signé et y ont apposé le cachet de leurs armes.

Fait à Berlin, le 22 Mai 1865.

Bismarck-Schönhausen. (L. S.) *Nothomb.* (L. S.) *Pommer-Esche.* (L. S.) *Philipsborn.* (L. S.) *Delbrück.* (L. S.)

No. 1851. Deutsch-englischer Vertrag, 30. Mai 1865.

His Majesty The King of Prussia, in His own Name, and representing the sovereign States and territories united to the Prussian system of Customs and Contributions, that is to say: — — as well as in the name of the other Members of the German Association of Customs and Commerce, that is to say: — — *on the one part*, and Her Majesty The Queen of the United Kingdom of Great Britain and Ireland, *on the other part*, being equally animated by the desire of regulating and extending the Commercial relations between the Zollverein and the United Kingdom of Great Britain and Ireland and its Dependencies, have resolved to conclude a Treaty for that purpose, and have named as Their Plenipotentiaries, that is to say: — — who, after having communicated to each other their respective Full Powers, found to be in good and due form, have agreed upon and concluded the following Articles:

No. 1851. Deutsch-englischer Vertrag, 30. Mai 1865.

Art. 1. Die Unterthanen der Staaten des Zollvereins, welche in den Gebieten oder Besitzungen Ihrer Britischen Majestät, und die Unterthanen Ihrer Britischen Majestät, welche in den Staaten des Zollvereins vorübergehend oder dauernd sich aufhalten, sollen daselbst in Beziehung auf den Betrieb des Handels und der Gewerbe die nämlichen Rechte geniessen und keinen höheren oder anderen Abgaben unterworfen werden, als die Angehörigen des in diesen Beziehungen am meisten begünstigten dritten Landes.

Art. 2. Die Boden- und Gewerbs-Erzeugnisse der Gebiete und Besitzungen Ihrer Britischen Majestät, welche in den Zollverein, und die Boden- und Gewerbs-Erzeugnisse der Staaten des Zollvereins, welche in das Vereinigte Königreich von Grossbritannien und Irland eingeführt werden, sollen daselbst, sie mögen zum Verbrauch, zur Lagerung, zur Wiederausfuhr oder zur Durchfuhr bestimmt sein, der nämlichen Behandlung unterliegen und insbesondere keinen höheren oder anderen Abgaben unterworfen werden, als die Erzeugnisse des in diesen Beziehungen am meisten begünstigten dritten Landes.

Art. 3. Bei der Ausfuhr nach den Gebieten und Besitzungen Ihrer Britischen Majestät sollen im Zollverein, und bei der Ausfuhr nach dem Zollverein sollen in den Gebieten und Besitzungen Ihrer Britischen Majestät Ausgangs-Abgaben von keinen anderen Waaren und mit keinem höheren oder anderen Betrage erhoben werden, als bei der Ausfuhr nach dem in dieser Beziehung am meisten begünstigten dritten Lande.

Art. 4. Die Waaren-Durchfuhr nach und von dem Vereinigten Königreiche von Grossbritannien und Irland soll im Zollverein und die Waaren-Durchfuhr nach und von dem Zollverein soll in dem Vereinigten Königreiche von Grossbritannien und Irland von jeder Durchgangs-Abgabe frei sein.

Art. 5. Jede Begünstigung, jedes Vorrecht oder jede Ermässigung in dem Tarif der Eingangs- und Ausgangs-Abgaben, welche einer der vertragenden Theile einer dritten Macht zugestehen möchte, wird gleichzeitig und ohne Bedingung dem anderen zu Theil werden. ¶ Ferner wird keiner der vertragenden Theile ein Einfuhr- oder ein Ausfuhr-Verbot gegen den anderen in Kraft setzen, welches nicht gleichzeitig auf alle anderen Nationen Anwendung fände. ¶ Die vertragenden Theile verpflichten sich, die Ausfuhr von Steinkohlen weder zu verbieten, noch mit einer Abgabe zu belegen. ¶ Die vorstehenden auf Ausfuhr-Verbote bezüglichen Bestimmungen sollen den aus dem Bundesverhältnisse herrührenden Verpflichtungen der zum Zollverein gehörenden Deutschen Bundesstaaten keinen Eintrag thun.

Art. 6. In Betreff der Bezeichnung oder Etikettirung der Waaren oder deren Verpackung, der Muster und der Fabrik- oder Handelszeichen sollen die Unterthanen der Staaten des Zollvereins in dem Vereinigten Königreiche von Grossbritannien und Irland und die Unterthanen Ihrer Britischen Majestät in den Staaten des Zollvereins denselben Schutz wie die Inländer geniessen.

Art. 7. Die in den vorstehenden Artikeln 1 bis 6 getroffenen Bestimmungen finden auch auf die Colonien und auswärtigen Besitzungen Ihrer Britischen Majestät Anwendung. In diesen Colonien und Besitzungen sollen die

No. 1851. Deutsch-englischer Vertrag, 30. Mai 1865.

Art. 1. The subjects of the States of the Zollverein who dwell either temporarily or permanently in the dominions or possessions of Her Britannic Majesty, and the subjects of Her Britannic Majesty who dwell either temporarily or permanently in the States of the Zollverein, shall enjoy therein, in respect to the exercise of commerce and trades, the same rights as, and be subjected to no higher or other taxes than, the subjects of any third country the most favoured in those respects.

Art. 2. The produce and manufactures of the dominions and possessions of Her Britannic Majesty which may be imported into the Zollverein, and the produce and manufactures of the States of the Zollverein which may be imported into the United Kingdom of Great Britain and Ireland, whether intended for consumption, warehousing, re-exportation, or transit, shall therein be treated in the same manner as, and in particular shall be subject to no higher or other duties than, the produce and manufactures of any third country the most favoured in those respects.

Art. 3. No other or higher duties shall be levied in the Zollverein on the exportation of any goods to the Dominions and Possessions of Her Britannic Majesty, nor in the Dominions and Possessions of Her Britannic Majesty on the exportation of any goods to the Zollverein, than are or may be levied on the exportation of the like goods to any third country the most favoured in that respect.

Art. 4. The transit of goods to and from the United Kingdom of Great Britain and Ireland shall be free from all transit-duties in the Zollverein, and the transit of goods to and from the Zollverein shall be free from all transit-duties in the United Kingdom of Great Britain and Ireland.

Art. 5. Any favour, privilege, or reduction, in the Tariff of duties of importation or exportation, which either of the Contracting Parties may concede to any third Power, shall be extended immediately and unconditionally to the other. ¶ No prohibition of importation or exportation shall be established by either of them against the other, which shall not at the same time be applicable to all other Nations. ¶ The Contracting Parties engage not to prohibit the exportation of coal, and to levy no duty upon such exportation. ¶ The preceding provisions respecting the prohibition of exportation shall not invalidate the obligations which the constitution of the Germanic Confederation imposes on the German States which compose the Zollverein.

Art. 6. With regard to the marks or labels of goods, or of their packages, and also with regard to patterns and marks of manufacture and trade, the subjects of the States of the Zollverein shall enjoy in the United Kingdom of Great Britain and Ireland, and the subjects of Her Britannic Majesty shall enjoy in the States of the Zollverein, the same protection as native subjects.

Art. 7. The stipulations of the preceding Articles 1. to 6. shall also be applied to the Colonies and Foreign Possessions of Her Britannic Majesty In those Colonies and Possessions the produce of the States of the Zollverein

No. 1851. Deutsch-englischer Vertrag, 30. Mai 1865.

Erzeugnisse der Staaten des Zollvereins keinen höheren oder anderen Eingangs-Abgaben unterliegen, als die gleichartigen Erzeugnisse des Vereinigten Königreichs von Grossbritannien und Irland, oder irgend eines anderen Landes, und es soll die Ausfuhr aus diesen Colonien oder Besitzungen nach dem Zollverein keinen höheren oder anderen Abgaben unterworfen werden, als die Ausfuhr nach dem Vereinigten Königreiche von Grossbritannien und Irland.

Art. 8. Der gegenwärtige Vertrag soll am 1. Juli 1865 in Kraft treten und bis zum 30. Juni 1877 in Kraft bleiben. Im Falle keiner der vertragenden Theile zwölf Monate vor diesem Tage seine Absicht, die Wirkung des Vertrages aufhören zu lassen, dem anderen kund gegeben haben sollte, soll derselbe bis zum Ablauf eines Jahres von dem Tage ab in Geltung bleiben, an welchem der eine oder der andere der vertragenden Theile denselben gekündigt hat.

Art. 9. Der gegenwärtige Vertrag soll ratificirt, und es sollen die Ratifications-Urkunden binnen drei Wochen oder, wenn möglich, früher in Berlin ausgewechselt werden. ¶ Zu Urkund dessen haben die beiderseitigen Bevollmächtigten denselben unterzeichnet und ihre Siegel beigedrückt. ¶ So geschehen zu Berlin den dreissigsten Mai im Jahre des Herrn Eintausend acht hundert und fünf und sechszig.

Bismarck-Schönhausen. (L. S.) *Napier.* (L. S.) *Pommer-Esche.* (L. S.) *John Ward.* (L. S.) *Philipsborn.* (L. S.)

Delbrück. (L. S.)

shall not be subject to any higher or other import-duties, than the produce of the United Kingdom of Great Britain and Ireland, or of any other country, of the like kind; nor shall the exportation from those Colonies or Possessions to the Zollverein be subject to any higher or other duties, than the exportation to the United Kingdom of Great Britain and Ireland.

Art. 8. The present Treaty shall come into force on the 1st of July 1865, and shall remain in force until the 30th of June 1877. In case neither of the Contracting Parties shall, twelve months before the last-mentioned day, have given notice to the other of the intention to terminate the operation of the Treaty, then the same shall continue in force until the expiration of one year from the day upon which either of the Contracting Parties shall have given notice to the other to terminate the same.

Art. 9. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Berlin in three weeks, or sooner, if possible. ¶ In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms. ¶ Done at Berlin the thirtieth day of May in the year of Our Lord one thousand eight hundred and sixty five.

Bismarck-Schönhausen. (L. S.) *Napier.* (L. S.) *Pommer-Esche.* (L. S.) *John Ward.* (L. S.) *Philipsborn.* (L. S.)

Delbrück. (L. S.)

No. 1852.

PREUSSEN. — Aus dem Bericht der vereinigten Commissionen für Finanzen und Zölle und für Handel und Gewerbe, über die Handelsverträge mit Belgien und Grossbritannien. —

No. 1852. Preussen, 9. Juni 1865.

Nachdem der Zollverein durch den Vertrag vom 2. August 1862 in den Verband derjenigen westeuropäischen Staaten eingetreten, welche durch umfassende auf der Grundlage der gegenseitigen meistbegünstigten Stellung abgeschlossene Handelsverträge unter einander verbunden sind, ist es seine natürliche Aufgabe geworden, einerseits dieses System durch Abschluss neuer Handelsverträge auf gleicher Basis mit den östlichen Nachbarn zu erweitern, andererseits durch Abschluss von Handelsverträgen mit den übrigen diesem Verbande bereits angehörigen Ländern seinem Handel und seiner Industrie in dem ganzen Gebiete desselben die meistbegünstigte Stellung zu erwerben resp. vertragsmässig zu sichern und zugleich selbst diesen Staaten die meistbegünstigte Stellung einzuräumen. ¶ Innerhalb dieses letzteren Theiles der Aufgaben liegen die beiden dem Landtage, und zwar zunächst dem Hause der Abgeordneten zur verfassungsmässigen Zustimmung vorgelegten Verträge mit Belgien und England. Beide Häuser des Landtages, sowie die Staats-Regierung hatten von vornherein diese Consequenz des Vertrages vom 2. August 1862 ins Auge gefasst und die Verallgemeinerung des mit Frankreich vereinbarten Tarifs bereits im Herbst 1862 durch übereinstimmende Beschlüsse festgestellt. (Man vergleiche den Gesetz-Entwurf, betreffend die Eingangs- und Ausgangs-Abgaben vom 9. August 1862, Drucksachen Nr. 126 und den Bericht über denselben vom 1. September 1862, Drucksachen Nr. 137.) Diese Verträge beziehen sich übrigens nicht blos auf den Verkehr mit den beiderseitigen Erzeugnissen des Landbaues und der Industrie, sondern auch auf den Verkehr der Personen und regelmässig auf gegenseitige Gleichstellung mit den eigenen Unterthanen in Bezug auf den Schutz der Waarenbezeichnungen etc. In dieser umfassenden, der Culturnationen würdigen und dem Fortschritt der Gewerbe und Gesittung, sowie der Entwickelung der Grundelemente des internationalen Friedens förderlichen Weise ein internationales Verkehrsrecht mit den übrigen Völkern Europas festzustellen, ist die Aufgabe der Verträge, in welche der Zollverein zugleich mit seiner eigenen Erneuerung eingetreten ist. ¶ Die beiden vorgelegten Verträge erschöpfen die Aufgaben des Zollvereins in dieser Beziehung noch keineswegs. Es handelt sich zunächst noch um die Schweiz und Italien, welche mit Frankreich bereits in einem Vertragsverhältnisse stehen. Der Vertrag mit der Schweiz, mit dessen Vereinbarung die Regierungen von Bayern, Württemberg und Baden beauftragt sind, ist zwar in seiner Fassung bereits vorläufig festgestellt, jedoch unterliegt er noch der Zustimmung der übrigen Zollvereins-Regierungen, so dass die Vorlage

desselben in der laufenden Session nicht mehr zu erwarten ist. Der Vertrag mit Italien, zu welchem von Preussischer, wie von Italienischer Seite die grösste Bereitwilligkeit vorliegt, hat in der politischen Stellung mehrerer Zollvereins-Regierungen zum Königreiche Italien schwer zu verantwortende Hindernisse gefunden, und der Zollverein steht in Gefahr, auf diesem für Industrie und Landwirthschaft wichtigen Markte von 22 Millionen Menschen seine bereits errungene Stellung einzubüssen und an der weiteren Ausbildung seines Verkehrs mit jener Halbinsel, die ihm offen stehen würde, ausgeschlossen zu werden, lediglich weil mehrere Zollvereins-Regierungen sich nicht entschliessen können, das bereits historisch Gewordene formell anzuerkennen. Es wird Aufgabe der Staats-Regierung sein, mit aller Energie auf die Beseitigung dieses Hindernisses hinzuwirken, und es steht zu erwarten, dass die öffentliche Meinung der Zollvereinsbevölkerung in derselben Richtung kräftige Impulse geben werde. Die Anomalie des Verhältnisses zu Italien wird um so schreiender, als selbst für Oesterreich durch alte Verträge mit dem Königreich Sardinien, welche, wie die von Oesterreich in dem Vertrage vom 11. April d. J. gemachten Vorbehalte beweisen, auch dem Königreich Italien gegenüber noch in thatsächlicher Geltung sind, auf dem Italienischen Markte die meistbegünstigte Stellung gesichert ist. ¶ Im Art. 15 des Handels- und Schifffahrtsvertrages zwischen Oesterreich und Sardinien vom 18. October 1851 (Handelsarchiv 1852. II. S. 278) heisst es nämlich:

> „dafür werden alle Zollermässigungen oder Rückerstattungen oder andere Begünstigungen für die Waaren-Ein-, Aus- oder Durchfuhr, welche die Sardinische Regierung in Zukunft anderen Staaten bewilligen möchte, von selbst und unentgeltlich dem Kaiserreich bewilligt werden."

Dass dieser Vertrag noch jetzt in Kraft ist, ergiebt dessen ausdrückliche Erwähnung im Schlussprotokoll Nr. 2 zu dem Handels- und Zollvertrage zwischen dem Zollvereine und Oesterreich vom 11. April d. J. (Drucksachen Nr. 143 S. 47.) ¶ Nach der Auskunft, welche die Vertreter der Staats-Regierung über die weitere Ausbildung des Systems der westeuropäischen Handelsverträge und die Stellung des Zollvereins zu derselben gaben, ist:

1) zwischen Frankreich und den Niederlanden im September v. J. ein Handels- und Zollvertrag paraphirt; derselbe hat jedoch noch nicht unterzeichnet werden können, weil er Aenderungen in der Niederländischen Colonialgesetzgebung in Bezug auf Java und in der Niederländischen Accisegesetzgebung voraussetzt, mit deren Feststellung die Generalstaaten gegenwärtig beschäftigt sind. Das Inkrafttreten des Vertrages ist für den Zollverein in zwei Beziehungen von grossem Werth. Einerseits hat der Zollverein in den Niederlanden vermöge des noch in Kraft bestehenden Vertrages vom 31. December 1851 in Betreff des Tarifs die Rechte der meistbegünstigten Nation, ohne dafür ein Aequivalent leisten zu müssen (selbstverständlich tritt indess der ermässigte Zollvereinstarif vom 1. Juli auch für die Niederländischen Provenienzen in Kraft); andererseits wird die für den Export Rheinländischer Massengüter nach Frankreich wichtige Niederländische Schifffahrt erst mit dem Inkrafttreten des Französisch-Niederländischen

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Vertrages benutzbar werden, da bis dahin Zollvereinswaaren, die über Niederländische Häfen gehen, in Frankreich dem allgemeinen Tarif unterliegen. Die Belgische Schifffahrt wird, wie beiläufig zu bemerken, bereits vom 1. Jul. d. J. ab unserm Export nach Frankreich zur Benutzung offen stehen, da bis dahin Frankreich für die in Frage kommenden Güter die Ursprungszeugnisse aufgehoben haben wird, so dass die betreffenden zollvereinischen Güter, über Belgische Häfen kommend, dieselben Vorzüge geniessen, wie wenn sie über zollvereinische resp. hanseatische Häfen oder zu Lande nach Frankreich eingeführt werden.

2) Mit Schweden und Norwegen hat Frankreich unter dem 13. Februar d. J. einen Handels-Vertrag abgeschlossen, der wesentliche Ermässigungen des Schwedischen und Norwegischen Tarifs stipulirt. Dieselben sind indess durch diedortige Gesetzgebung bereits verallgemeinert, und von der Schwedischen Regierung ist hier die Erklärung eingegangen, dass die Tarif-Ermässigungen auch auf zollvereinsländische Waaren Anwendung finden. ¶ Die Tarif-Ermässigungen, welche in diesen beiden Verträgen verabredet sind, kommen mithin dem Zollverein ohne Weiteres zu Gute. Weitere ähnliche Handelsverträge sind von Frankreich bis jetzt nicht abgeschlossen.

Die unterzeichneten Commissionen haben sich der Prüfung der vorgelegten Verträge in Gegenwart der Vertreter der Staats-Regierung unterzogen und erstatten nachfolgend ihren Bericht. Beide Verträge beruhen darauf, dass die gegenseitige Behandlung auf dem Fusse der meistbegünstigten Nation zugesichert wird; ihre Verabredungen erstrecken sich auf den Verkehr der Waaren wie der Personen und sichern die Gegenwart wie die Zukunft. Es werden beiderseitig alle Vortheile eingeräumt und zugesichert, welche bis dahin anderen Staaten in Bezug auf Einfuhr, Ausfuhr, Durchfuhr und Lagerung der Erzeugnisse der Landwirthschaft und des Gewerbfleisses zugestanden sind, und jede Begünstigung dieser Art, welche zukünftig ein Theil einem dritten Staate einräumt, kommt unmittelbar auch dem anderen Theile zu Gute. ¶ In Bezug auf die Höhe der beiderseitigen Tarife enthalten diese Verträge unmittelbar nur soweit bindende Verpflichtungen, als in dem Belgischen Vertrage die Höhe einiger Zollsätze gegenseitig stipulirt ist. ¶ Da indess Belgien durch die mit Frankreich, England und die Schweiz, England durch den mit Frankreich, der Zollverein durch die mit Frankreich und Oesterreich abgeschlossenen Verträge die Höhe des Tarifs für die meistbegünstigten Nationen in dem ganzen Umfange der Positionen, die für den gegenseitigen Verkehr zwischen Europäischen Völkern Interesse haben, bereits fixirt haben, so ist durch die vorliegenden Verträge indirect auch die Höhe des Tarifs gegenseitig gegen willkürliche Steigerungen gesichert. ¶ Die Unterschiede zwischen den beiden Verträgen beruhen auf besonderen Voraussetzungen, welche in der Lage oder Gesetzgebung Belgiens einerseits und Grossbritanniens andererseits begründet sind.

1) Der Vertrag zwischen dem Zollverein und Belgien.

Derselbe ist von Preussen im eigenen Namen und im Namen der übrigen dem Zollverein angehörenden Staaten abgeschlossen und ist lediglich ein Han-

delsvertrag, da die Verhältnisse der Schifffahrt bereits durch Vertrag vom 28. März 1863 geordnet sind. ¶ Nachdem Belgien durch Vertrag mit Frankreich vom 1. Mai 1861, und mit Grossbritannien vom 23. Juli 1862, für die Einfuhren aus diesen Ländern durchgehende grosse Ermässigungen seiner Zollsätze bewilligte, gelang es der Königlich Preussischen Regierung durch protokollarische Vereinbarung vom 28. März 1863 zu bewirken, dass auch für die Einfuhren aus dem Zollvereine nach Belgien sofort die für die Einfuhren aus Grossbritannien festgesetzten, und vom 1. October 1864 an die für die Einfuhren aus Frankreich festgesetzten Zollsätze in Anwendung kamen, mithin dass vom 1. October 1864 an der Zollverein, hinsichtlich der Einfuhren nach Belgien, auf den Fuss der meistbegünstigten Nation gestellt wurde, vorbehaltlich der durch definitiven Vertrag zu sichernden Gegenseitigkeit. Indem nun der vorliegende Vertrag solche Gegenseitigkeit gewährt, sind auch einige weitere Tarifermässigungen vereinbart worden, welche aber, nach den von Belgien 1863 gemachten Concessionen und den neuesten Herabsetzungen des Zollvereinstarifs, keine sehr erhebliche sein konnten. ¶ Der Commissionsbericht über das Protokoll vom 28. März 1863 (Nr. 113 der Drucksachen, II. Session 1863) hob hervor, dass der Werthzoll von 15 pCt. für leinene und baumwollene Bänder theilweise eine Erhöhung bilde im Vergleiche zum früheren Satze des allgemeinen Belgischen Tarifs, und forderte die Staats-Regierung auf, bei der Unterhandlung des definitiven Vertrags dahin zu wirken, dass eine den übrigen Ermässigungen entsprechende Herabsetzung dieses Zollsatzes eintrete. Dies ist soweit geschehen, als der Eingangszoll in Belgien für Strumpf-, Posamentier- und Bandwaaren von Baumwolle oder Leinen auf 10 pCt. vom Werthe herabgesetzt ist. Es äusserte indess bei der General-Discussion ein Mitglied der Commission sein Bedauern, dass nicht im Interesse der Rheinländischen Industrie eine noch grössere Ermässigung dieses Zolls, welcher früherhin nur 6 pCt. betrug, zu erzielen. ¶ Für wollene und halbwollene Waaren besteht ein Werthzoll von 10 pCt., mit Ausnahme der Indischen Cachemir-Shawls, welche 5 pCt. vom Werthe zahlen. Es lag aber im Interesse der Zollvereins-Industrie, für die werthvolleren Waaren dieser Gattung einen Gewichtszoll eintreten zu lassen, und es wurde für Tuch die Feststellung eines dem Zollvereins-Tarife entsprechenden Zolles von 75 Frcs. für 100 Kil. verlangt. Die Regierungs-Denkschrift führt die Gründe an, aus denen Belgien dies ablehnte. Es liess sich weiter nichts erreichen, als die Bestimmung, dass der Importeur befugt sei, für im Zollvereine verfertigte reinwollene oder halbwollene Waaren anstatt des Werthzolles von 10 pCt. einen Gewichtszoll von 260 Franken für 100 Kil. (34 Rthlr. 20 Sgr. pro Ctr.) zu entrichten. Hierbei darf nicht unerwähnt bleiben, dass für halbwollene Waaren bis zum 1. October 1864 ein Gewichtszoll von nur 180 Franken für 100 Kil. gestattet war. ¶ Für Zollvereinsländische Waaren aus Baumwolle und Seide, in welchen die Baumwolle überwiegt, ist ferner gestattet, an Stelle des Werthzolls von 15 pCt. den Gewichtszoll für rein seidene Waaren mit 300 Franken für 100 Kil. (40 Rthlr. pro Ctr.) zu entrichten. ¶ Diese bei wollenen, halbwollenen und baumwollenen, mit Seide gemischten Waaren zur Wahl gestellten Gewichtszölle sind Abweichungen von dem in der Einführung begriffenen Belgischen Tarifsystem.

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Sie sind als werthvolle Concessionen zu betrachten, und es kommt dabei besonders in Betracht, dass es Belgien nach allen seinen Verträgen freisteht, seinen allgemeinen Tarif, dessen Gewichtszollsätze gegenwärtig, so weit sie sich etwa für einzelne Artikel günstiger stellen, neben den Werthzollsätzen der Vertragstarife zur Auswahl stehen, aufzuheben und den Vertragstarif zu verallgemeinern. ¶ Ermässigungen des durch Protokoll von 1865 festgestellten Tarifs hat Belgien durch den jetzigen Vertrag gewährt in folgenden Positionen:

Saatöl frei, bisher 6 Frcs. für 100 Kil.

Gold- und Silberblatt frei, bisher 5 pCt. vom Werthe.

Chemische Fabrikate, nicht benannt, frei, bisher 2 Frcs. für 100 Kil.

Papier, mit Ausnahme der Tapeten, 4 Frcs. für 100 Kil., bisher 8 Frcs.

Eisen- und Stahlwaaren 5 Frcs. (und vom 1. Juli 1866 an 4 Frcs.) für 100 Kil., bisher 1 Frc.

Steinkohlen $0,_{50}$ Frcs. (und vom 1. Juli 1866 an frei) für 100 Kil., bisher 1 Frc.

Diese Erleichterungen sind bestens zu acceptiren. ¶ Was den Zollvereinstarif betrifft, so bringt uns der Vertrag keine weitere Ermässigung, als die Befreiung der Steinkohlen von dem Zoll von 6 Pf. pro Centner. Und da auch die Einfuhren aus Frankreich, England und Oesterreich als die der meist begünstigten Nation behandelt werden müssen, so hat die stipulirte freie Einfuhr der Belgischen Steinkohlen zur praktischen Folge, eine allgemeine Zollfreiheit für Steinkohlen, auch ohne dass eine solche durch Verallgemeinerungsgesetz in den Zollvereinstarif aufgenommen wird. — Die sonstigen in Artikel 8. angeführten Ermässigungen des Zollvereinstarifs sind nur solche, die schon durch den Vertrag mit Oesterreich festgestellt worden sind. ¶ Zu den einzelnen Artikeln des Vertrages ist noch Folgendes zu bemerken: — —

2) Der Vertrag zwischen dem Zollverein und Grossbritannien

ist ebenfalls von Preussen im eigenen Namen und im Namen der übrigen dem Zollvereine angehörenden Staaten abgeschlossen. Er enthält keine speciellen Bestimmungen über Tarifänderungen, welche etwa der eine Theil dem anderen eingeräumt hätte, sichert vielmehr lediglich durch allgemeine Festsetzungen die gegenseitige Behandlung auf dem Fusse der meistbegünstigten Nation. Seitens des Zollvereins findet der festgestellte neue Tarif ohnehin auf Englische Waaren Anwendung, seitens Englands der allgemeine, alle Nationen gleich behandelnde Tarif auf zollvereinsländische Waaren. In dieser Beziehung ist lediglich der bestehende Zustand beiderseitig vertragsmässig gesichert. Wünschenswerth wäre gewesen, wenn von England die Beseitigung des Restes von Zollschutz, der in dem gegen die heimische Accise um 3 d per Gallon höheren Zollsatz für Brannt-

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wein noch besteht und bei Vereinbarung des Englisch-Französischen Vertrages mit Rücksicht auf die Deutschen Sprite aufrecht erhalten zu sein scheint, hätte erwirkt werden können. ¶ Von Seiten der Staats-Regierung wurde hierauf bemerkt, dass, als Grossbritannien im Laufe der Verhandlungen die Ermässigung einiger Zollsätze des neuen Vereins-Zolltarifs in Anregung gebracht habe, die Erklärung abgegeben sei, man werde eine Verhandlung über solche Ermässigungen unter der Voraussetzung nicht ablehnen, dass Grossbritannien zu einer Herabsetzung der Eingangsabgabe für Spiritus bereit sei, und es werde eine Verhandlung über diese Frage abgesondert von der Verhandlung über den vorliegenden Vertrag vorgenommen werden können. Eine Antwort auf diese Erklärung sei noch nicht erfolgt, die Frage sei also noch eine offene. (Folgen Bemerkungen zu den einzelnen Artikeln des Vertrags.)

Die unterzeichneten Commissionen haben gegen den Inhalt beider vorgelegten Verträge nichts zu erinnern gefunden und stellen einstimmig den Antrag:

Das Haus der Abgeordneten wolle beschliessen:

1) dem Handelsvertrage zwischen dem Zollverein und Belgien vom 22. Mai d. J.,

sowie

2) dem Handelsvertrage zwischen dem Zollverein und Grossbritannien vom 30. Mai d. J.

die verfassungsmässige Zustimmung zu ertheilen.

Berlin, den 9. Juni 1865.

No. 1853.

MECKLENBURG und **FRANKREICH**. — Handels- und Schifffahrtsvertrag.*) —

No. 1853. Mecklenb.-französ. Vertrag, 9. Juni 1865.

Son Altesse Royale le Grand Duc de Mecklenbourg-Schwerin, d'une part, et Sa Majesté l'Empereur des Français, d'autre part, animés d'un égal désir de resserrer les liens d'amitié et de contribuer au développement des relations commerciales et maritimes entre la France et le Grand Duché, ont résolu de conclure un Traité à cet effet et ont nommé pour Leurs Plénipotentiaires, savoir: — — Lesquels, après s'être communiqué leurs pleinspouvoirs respectifs, trouvés en bonne et due forme, sont convenus des Articles suivants.

Art. 1. Il y aura pleine et entière liberté de commerce et de navigation entre les habitants de la France et ceux du Grand Duché de Mecklenbourg-Schwerin. Ils auront réciproquement le droit de posséder des biens-fonds dans toutes les parties des États des Hautes Parties Contractantes, d'y occuper des maisons et des magasins et de disposer de leur propriété personnelle, d'une nature ou dénomination quelconque, en quelque manière que ce soit. ¶ Les Français ne seront soumis, dans le Grand Duché, pour l'acquisition du droit de bourgeoisie, à des droits autres ou plus élevés que ceux que paient les sujets Mecklenbourgeois, et, par rapport aux droits annuels et charges de bourgeoisie, ils seront traités absolument de même que les bourgeois et habitants du Grand Duché. ¶ Il est entendu toutefois que par les stipulations qui précèdent, il n'est pas dérogé aux lois, ordonnances et réglements spéciaux applicables sur le territoire de chacun des États Contractants aux nationaux eux-mêmes en matière de commerce, d'industrie et de police.

Art. 2. Les sujets des Hautes Parties Contractantes seront réciproquement exempts de tout service personnel, soit dans les armées de terre ou de mer, soit dans les gardes ou milices nationales. Ils seront également dispensés de toutes charges et fonctions judiciaires et municipales quelconques.

Art. 3. Les navires français de quelque lieu qu'ils viennent, qui entreront chargés ou sur lest dans les ports du Grand Duché, ne paieront, dans ces ports, soit à l'entrée, soit à la sortie, soit durant leur séjour, d'autres ni de plus forts droits de tonnage, de pilotage, de quarantaine, de phares ou autres charges qui pèsent sur la coque des navires, sous quelque dénomination que ce soit, perçus au profit de l'État, des communes, des corporations locales, des particuliers ou d'établissements quelconques que ceux dont sont ou seront passibles les navires

*) Gleichzeitig ist eine „literarische Convention" nach Massgabe der von Frankreich mit anderen Staaten eingegangenen Verträge abgeschlossen worden.

Seine Königliche Hoheit der Grossherzog von Mecklenburg-Schwerin, einerseits, und Seine Majestät der Kaiser der Franzosen, andererseits, von dem gleichen Wunsche beseelt, die Freundschaftsbande zwischen Frankreich und dem Grossherzogthume zu befestigen und zur weiteren Entwicklung des Handels- und Schiffsverkehrs zwischen beiden Staaten beizutragen, haben zu diesem Zwecke einen Vertrag abzuschliessen beschlossen, und zu Ihren Bevollmächtigten ernannt: — — welche, nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten, über nachfolgende Artikel übereingekommen sind:

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Art. 1. Es soll volle und ganze Freiheit des Handels und der Schifffahrt zwischen den Bewohnern Frankreichs und denjenigen des Grossherzogthums Mecklenburg-Schwerin bestehen. Sie sollen gegenseitig das Recht haben, in allen Theilen der Staaten der hohen contrahirenden Theile Grundstücke zu besitzen, daselbst Häuser und Waarenlager inne zu haben und über ihr persönliches Eigenthum, von welcher Art oder Benennung es auch sein mag, in jeder beliebigen Weise zu verfügen. ¶ Die Franzosen sollen im Grossherzogthume bei Erwerbung des Bürgerrechts keinen anderen oder höheren Abgaben unterworfen sein, als denjenigen, welche die Mecklenburgischen Unterthanen zahlen, und hinsichtlich der jährlichen Abgaben und bürgerlichen Lasten durchaus eben so behandelt werden, wie die Bürger und Einwohner des Grossherzogthums. ¶ Einverstanden ist man übrigens, dass durch die vorstehenden Bestimmungen den Gesetzen, Verordnungen und besonderen Vorschriften, welche auf dem Gebiete eines jeden der contrahirenden Staaten für die eigenen Unterthanen gelten, von ihrer Gültigkeit in Bezug auf Handel, Gewerbebetrieb und Polizei nichts entzogen wird.

Art. 2. Die Unterthanen der hohen contrahirenden Theile sollen gegenseitig von jedem persönlichen Dienste, sowohl in der Kriegsmacht zu Lande und zur See, als auch in Nationalgarden und Milizen frei sein. Desgleichen sollen sie von der Uebernahme jeglicher Art von gerichtlichen und municipalen Aemtern und Functionen befreiet sein.

Art. 3. Französische Schiffe, welche mit Ladung oder mit Ballast in die Häfen des Grossherzogthums einlaufen, sollen, woher sie auch kommen mögen, in diesen Häfen weder bei ihrem Eingange noch bei ihrem Ausgange noch während ihres Aufenthalts andere oder höhere Tonnen-, Lootsen-, Quarantaine-, Leuchtthurmsgelder oder sonstige, gleichviel unter welchem Namen auf dem Schiffskörper ruhende Abgaben entrichten — mögen diese Abgaben für den Staat, Gemeinden, örtliche Corporationen, Privatpersonen oder irgend welche Anstalten

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Mecklenbourgeois venant des mêmes lieux et ayant la même destination. ¶ Les navires Mecklenbourgeois venant en droiture et avec chargement des ports du Grand Duché, ou sur lest d'un port quelconque seront traités dans les ports de l'Empire comme navires français pour tous les droits énumérés dans le présent article.

Art. 4. Les deux Hautes Parties Contractantes se réservent la faculté de prélever, dans leurs ports respectifs, sur les navires de chacun des deux Pays, ainsi que sur les marchandises composant la cargaison de ces navires, des taxes spéciales affectées aux besoins d'un service local. ¶ Il est entendu que les taxes dont il s'agit devront, dans tous les cas, être appliquées également aux navires des deux Hautes Parties Contractantes ou à leurs cargaisons. ¶ En ce qui concerne le placement des navires, leur chargement ou leur déchargement, dans les ports, hâvres, rades ou bassins, et généralement pour toutes les formalités ou dispositions quelconques auxquelles peuvent être soumis les navires de commerce, leurs équipages et leurs cargaisons, il ne sera accordé aux navires nationaux, dans les États respectifs, aucun privilége, ni aucune faveur qui ne le soit également aux navires de l'autre Puissance, la volonté des Hautes Parties Contractantes étant que, sous ce rapport, les bâtiments français et les bâtiments Mecklenbourgeois soient traités sur le pied d'une parfaite égalité.

Art. 5. La nationalité et la capacité des navires seront admises de part et d'autre, d'après les lois et réglements particuliers à chaque Pays, au moyen des documents délivrés aux capitaines par les autorités compétentes. ¶ La perception des droits de navigation se fera respectivement, au choix du capitaine, soit d'après le chiffre du tonnage inscrit sur les documents susmentionnés, soit d'après le mode de jaugage usité dans le port où se trouve le navire.

Art. 6. Tous les produits et autres objets de commerce dont l'importation ou l'exportation pourra légalement avoir lieu dans les États de l'une des Hautes Parties Contractantes par navires nationaux, pourront également y être importés ou en être exportés par des navires de l'autre Puissance. ¶ Les marchandises importées dans les ports des deux Pays par des navires de l'une ou de l'autre Puissance, pourront y être livrées à la consommation, au transit ou à la réexportation ou enfin être mises en entrepôt, au gré du propriétaire ou de ses ayants cause, le tout sans être assujéties à des droits de magasinage, de surveillance ou autres charges de même nature plus forts que ceux auxquels sont ou seront soumises les marchandises apportées par des navires nationaux.

Art. 7. Les navires des deux Nations naviguant au cabotage seront traités de part et d'autre, sur le même pied que les navires des nations les plus favorisées.

Art. 8. Les marchandises de toute nature et de toute origine importées directement du Grand Duché en France ou en Algérie, sous pavillon Mecklenbourgeois et réciproquement les marchandises de toute nature importées de quel-

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erhoben werden, — als diejenigen, welchen die von denselben Orten kommenden und nach denselben Orten bestimmten Mecklenburgischen Schiffe jetzt oder künftig unterliegen. ¶ Mecklenburgische Schiffe, welche mit Ladung direct aus den Häfen des Grossherzogthums, oder mit Ballast aus irgendwelchem Hafen kommen, sollen in den Häfen des Kaiserreichs rücksichtlich aller im gegenwärtigen Artikel aufgeführten Abgaben als Französische Schiffe behandelt werden.

Art. 4. Die hohen contrahirenden Theile behalten sich die Befugniss vor, in ihren betreffenden Häfen von den Schiffen jedes der beiden Länder, so wie von den die Ladung dieser Schiffe bildenden Waaren, besondere durch die etwaigen Bedürfnisse des Localdienstes veranlasste Abgaben zu erheben. ¶ Es versteht sich jedoch, dass die hier in Frage stehenden Abgaben allemal gleichmässig die Schiffe beider hohen contrahirenden Theile, oder deren Ladungen, treffen müssen. ¶ In Bezug auf das Aufstellen der Schiffe, ihr Einladen und Ausladen in den Häfen, Seeplätzen, Rheden oder Bassins, so wie überhaupt in Hinsicht aller Förmlichkeiten oder sonstigen Bestimmungen, welchen die Handelsschiffe, ihre Mannschaften und ihre Ladungen unterworfen werden können, soll den eigenen Schiffen in den beiderseitigen Staaten kein Vorrecht und keine Begünstigung zugestanden werden, die nicht in gleicher Weise den Schiffen der andern Macht zukämen, indem es der Wille der hohen contrahirenden Theile ist, dass in dieser Beziehung die Französischen und die Mecklenburgischen Schiffe auf dem Fusse einer vollkommenen Gleichstellung behandelt werden sollen.

Art. 5. Die Staatsangehörigkeit und die Tragfähigkeit der Schiffe sollen beiderseitig nach den jedem Lande eigenthümlichen Gesetzen und Vorschriften auf Grund der den Schiffscapitainen durch die zuständigen Behörden ausgefertigten Papiere anerkannt werden. ¶ Die Erhebung der Schiffsabgaben soll gegenseitig, nach der Wahl des Capitains, entweder nach der in den obengenannten Papieren angegebenen Tragfähigkeit, oder nach dem in dem Hafen, in welchem das Schiff sich befindet, üblichen Vermessungsverfahren geschehen.

Art. 6. Alle Erzeugnisse und andere Handelsgegenstände, deren Einfuhr oder Ausfuhr auf Nationalschiffen in den Staaten des einen der hohen contrahirenden Theile gesetzlich statt finden darf, sollen in gleicher Weise auch auf den Schiffen der anderen Macht daselbst eingeführt oder von dort ausgeführt werden dürfen. ¶ Die auf den Schiffen der einen oder der anderen Macht in die Häfen beider Länder eingeführten Waaren sollen daselbst nach dem Belieben des Eigenthümers oder seiner Machthaber zum Verbrauch, zum Durchgange oder zur Wiederausfuhr declarirt, oder auch zur Niederlage gebracht werden können, und zwar Alles dieses ohne höheren Magazingebühren, Aufsichts- oder sonstigen Kosten dieser Art unterworfen zu werden, als denjenigen, welchen die auf Nationalschiffen eingegangenen Waaren jetzt oder in Zukunft unterliegen.

Art. 7. Schiffe beider Nationen, welche Küstenschifffahrt treiben, sollen von beiden Theilen auf demselben Fusse wie die Schiffe der am meisten begünstigten Nationen behandelt werden.

Art. 8. Waaren jeder Art und jeden Ursprungs, welche direct vom Grossherzogthume nach Frankreich oder Algier unter Mecklenburgischer Flagge, und umgekehrt Waaren jeder Art, welche irgendwoher unter Französischer Flagge

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que lieu que ce soit, sous pavillon français dans le Grand Duché et ses possessions, jouiront des mêmes exemptions, restitutions de droits, primes et autres faveurs quelconques; elles ne paieront respectivement d'autres ni de plus forts droits de douane, de navigation ou de péage perçus au profit de l'État, des communes, des corporations locales, de particuliers ou d'établissements quelconques et ne seront assujétis à aucune autre formalité que si l'importation en avait lieu sous pavillon national. ¶ Il est entendu que la relâche d'un navire Mecklenbourgeois dans un ou plusieurs ports intermédiaires ne lui fera point perdre le bénéfice de l'importation directe, à la condition que ce navire n'aura fait aucune opération d'embarquement dans ces ports d'escale. ¶ Il est expressément entendu que les conditions spéciales imposées en France aux importations effectuées sous pavillon français d'ailleurs que des pays d'origine s'appliqueront aux produits expédiés en France des entrepôts du Grand Duché sous pavillon Mecklenbourgeois.

Art. 9. Seront complétement affranchis des droits de tonnage et d'expédition dans les ports respectifs:

1⁰. Les navires qui, entrés sur lest de quelque lieu que ce soit, en ressortiront sur lest.

2⁰. Les navires qui, passant d'un port de l'un des deux Pays dans un ou plusieurs ports du même pays, soit pour y déposer tout ou partie de leur cargaison, soit pour y composer ou pour y compléter leur chargement, justifieront avoir déjà acquitté ces droits.

3⁰. Les navires qui, entrés avec chargement dans un port, soit volontairement, soit en relâche forcée, en sortiront sans avoir fait aucune opération de commerce.

Ne seront pas considérés, en cas de relâche forcée, comme opérations de commerce, le débarquement et le rechargement des marchandises pour la réparation du navire ou pour sa purification, quand il est mis en quarantaine, le transbordement sur un autre navire en cas d'innavigabilité du premier, les dépenses nécessaires au ravitaillement des équipages et la vente des marchandises avariées, lorsque l'administration des douanes en aura accordé l'autorisation. ¶ Les exceptions à la franchise de pavillon qui atteindraient en France les navires français venant d'ailleurs que du Grand Duché, seront communes aux navires Mecklenbourgeois faisant les mêmes voyages.

Art. 10. Les produits du sol et de l'industrie du Grand Duché jouiront, à leur importation dans les colonies françaises, de tous les droits, avantages et faveurs qui sont actuellement ou seront accordés aux produits similaires de toute autre nation européenne la plus favorisée. Il est d'ailleurs entendu qu'en tous points les bâtiments Mecklenbourgeois seront, dans les Colonies françaises, à leur entrée, pendant leur séjour, ainsi qu'à leur sortie, qu'ils soient chargés ou sur lest, et sans distinction de provenance, traités comme ceux de toute autre Nation Européenne la plus favorisée.

in das Grossherzogthum und dessen Besitzungen eingeführt werden, sollen dieselben Befreiungen, Zollvergütungen, Prämien und sonstigen Begünstigungen irgend welcher Art geniessen, auch gegenseitig keine anderen noch höheren Zoll-, Schifffahrts- oder Wege-Abgaben zahlen, mögen solche für den Staat, Gemeinden, örtliche Corporationen, Privatpersonen oder irgend welche Anstalten erhoben werden, und keiner anderen Förmlichkeit unterworfen sein, als wenn die Einfuhr unter der Landesflagge stattfände. ¶ Man ist übereingekommen, dass der Aufenthalt eines Mecklenburgischen Schiffes in einem oder mehreren Zwischenhäfen dasselbe der Vortheile der directen Einfuhr nicht verlustig macht, vorausgesetzt, dass dieses Schiff in diesen Zwischenhäfen keine Einladung vorgenommen hat. ¶ Es ist ausdrücklich verabredet, dass die besonderen Bedingungen, welche in Frankreich für die Einfuhren unter Französischer Flagge aus anderen als den Ursprungsländern bestehen, auch auf die aus den Entrepots des Grossherzogthums unter Mecklenburgischer Flagge nach Frankreich kommenden Waaren Anwendung finden sollen.

Art. 9. Von den Tonnengeldern und Expeditions-Abgaben in den beiderseitigen Häfen sollen vollständig befreit sein:

1) Schiffe, welche, von irgend einem Orte mit Ballast angekommen, auch mit Ballast wieder auslaufen;

2) Schiffe, welche von einem Hafen eines der beiden Länder nach einem oder mehreren anderen Häfen desselben Landes weiter gehen, um dort entweder ihre Ladung, ganz oder theilweise zu löschen, oder dieselbe einzunehmen oder zu vervollständigen, und sich darüber ausweisen, dass sie jene Abgaben schon gezahlt haben;

3) Schiffe, welche mit Ladung, freiwillig oder im Nothfalle, in einem Hafen angekommen, ihn wieder verlassen, ohne eine Handels-Operation vorgenommen zu haben.

Als Handels-Operationen werden aber, beim Einlaufen im Nothfalle, nicht angesehen das Löschen und das Wiedereinladen der Waaren zum Behufe der Ausbesserung des Schiffes, oder seiner Reinigung, wenn es in Quarantaine liegt, die Hinüberschaffung derselben auf ein anderes Schiff im Falle der Seeuntüchtigkeit des ersteren, die nothwendigen Ausgaben für die Verproviantirung der Mannschaft, und der Verkauf der durch Havarie beschädigten Waaren, wenn die Zollverwaltung dazu Erlaubniss ertheilt hat. ¶ Die Ausnahmen von der Abgabenfreiheit, welche in Frankreich für die anderswoher als aus dem Grossherzogthume kommenden Schiffe gelten, sollen auch auf die Mecklenburgischen Schiffe, welche dieselben Reisen machen, anwendlich sein.

Art. 10. Die Erzeugnisse des Bodens und des Gewerbfleisses des Grossherzogthums sollen bei ihrer Einfuhr in die Französischen Colonien alle Rechte, Vortheile und Begünstigungen geniessen, welche den gleichartigen Erzeugnissen irgend welcher anderen meistbegünstigten europäischen Nation jetzt oder künftig zustehen. Ausserdem ist verabredet, dass in allen Stücken die Mecklenburgischen Schiffe in den Französischen Colonien bei ihrem Eingange, während ihres Aufenthaltes, so wie bei ihrem Ausgange, mögen sie beladen sein oder in Ballast, und ohne Unterschied der Herkunft, wie die Schiffe jeder andern meistbegünstigten europäischen Nation behandelt werden sollen.

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Art. 11. Les navires Mecklenbourgeois employés à l'intercourse entre les ports du Grand Duché et l'Algérie jouiront dans les ports de cette possession française d'une réduction de cinquante pour cent sur le taux général des droits de tonnage. ¶ Dans le cas où un navire Mecklenbourgeois entrerait successivement dans un ou plusieurs ports de cette possession pour compléter son chargement ou son déchargement, la totalité des droits de tonnage qui seront perçus ne pourra dépasser le maximum fixé dans le paragraphe précédent.

Art. 12. Les marchandises de toute nature qui seront exportées du Grand Duché par navires français ou de France par navires Mecklenbourgeois, pour quelque destination que ce soit, ne seront point assujéties à d'autres droits ni formalités de sortie que si elles étaient exportées par navires nationaux, et elles jouiront sous l'un et l'autre pavillon, de toute prime ou restitution de droits ou autres faveurs qui seront accordées dans chacun des deux Pays à la navigation nationale.

Art. 13. Il est fait exception aux stipulations de la présente Convention en tout ce qui concerne les avantages dont les produits de la pêche nationale sont ou pourront être l'objet, tant en France que dans le Grand Duché.

Art. 14. Les stipulations des articles 3, 8 et 11 du présent traité s'appliqueront également aux navires Mecklenbourgeois, ainsi qu'à leur cargaison arrivant d'un port de l'association douanière allemande ainsi que des Villes anséatiques. Cette disposition ne pourra toutefois entrer en vigueur avant la mise à exécution des Traités conclus par la France avec le Zollverein et les Villes anséatiques. ¶ Il est entendu que les navires Mecklenbourgeois venant directement d'un port de l'association douanière allemande ou des Villes anséatiques en France seront assujétis aux mêmes droits de tonnage que les navires du pays faisant la même intercourse.

Art. 15. Les Hautes Parties Contractantes s'accordent réciproquement le droit de nommer dans les ports et places de commerce de l'autre des Consuls généraux, Consuls, Vice-Consuls et Agents Consulaires, se réservant toutefois de n'en pas admettre dans tels lieux qu'Elles jugeront convenable de désigner. Les Consuls-généraux, Consuls, Vice-Consuls et Agents Consulaires ainsi que leurs Chanceliers, jouiront à charge de réciprocité, des mêmes priviléges, pouvoirs et exemptions dont jouissent ou jouiront ceux des nations les plus favorisées. ¶ Dans le cas où ils exerceraient le commerce, ils seront tenus de se soumettre aux mêmes lois et réglements auxquels sont soumis dans le même lieu, par rapport à leurs transactions commerciales, les particuliers de leur nation.

Art. 16. Les Consuls, Vice-Consuls et Agents Consulaires de chacune des deux Hautes Parties Contractantes recevront des autorités locales toute aide et assistance pour la recherche, l'arrestation et la remise des marins et autres individus faisant partie de l'équipage des navires de guerre ou de commerce de leur pays respectif, et qui auraient désérté dans un port situé sur le territoire de l'une des deux Hautes Parties Contractantes. ¶ A cet effet, ils s'adresseront par

Art. 11. Die zur Fahrt zwischen den Häfen des Grossherzogthums und Algiers verwendeten Schiffe sollen in den Häfen dieser Französischen Besitzung eine Ermässigung von funfzig Procent von der allgemeinen Tonnengelder-Taxe geniessen. ¶ Falls ein Mecklenburgisches Schiff einen oder mehrere Häfen dieser Besitzung nach einander anläuft, um seine Einladung oder Löschung fortzusetzen, soll die Totalsumme der zu erhebenden Tonnengelder nicht über das im vorigen Absatze bestimmte Maximum hinausgehen.

Art. 12. Waaren jeder Art, welche auf Französischen Schiffen aus dem Grossherzogthume oder auf Mecklenburgischen Schiffen aus Frankreich, nach welchem Bestimmungsorte es auch sein möge, ausgeführt werden, sollen keinen anderen Abgaben noch Ausgangsförmlichkeiten unterliegen, als wenn die Ausfuhr auf Nationalschiffen erfolgte, und sollen unter der einen wie unter der anderen Flagge aller Prämien, Zollvergütungen und sonstigen Begünstigungen theilhaftig werden, welche in jedem der beiden Länder der nationalen Schifffahrt bewilligt werden.

Art. 13. Ausgenommen von den Bestimmungen des gegenwärtigen Vertrages bleiben diejenigen Begünstigungen, welche den Erzeugnissen des eigenen Fischfanges sowohl in Frankreich, als im Grossherzogthume, jetzt oder künftig zu Theil werden.

Art. 14. Die Bestimmungen der Artikel 3, 8 und 11 des gegenwärtigen Vertrags sollen in gleicher Weise für Mecklenburgische Schiffe und deren Ladung gelten, welche von einem Hafen des Deutschen Zollvereins oder der Hansestädte kommen. Diese Anordnung soll jedoch nicht eher in Kraft treten, als die von Frankreich mit dem Zollvereine und den Hansestädten abgeschlossenen Verträge zur Geltung gelangt sind. ¶ Es ist verabredet, dass Mecklenburgische Schiffe, welche direct von einem Hafen des Deutschen Zollvereins oder der Hansestädte nach Frankreich kommen, denselben Tonnengeldern unterworfen sein sollen, wie die Landesschiffe, welche dieselbe Fahrt machen.

Art. 15. Die hohen contrahirenden Theile bewilligen sich gegenseitig das Recht, in den Häfen und Handelsplätzen des anderen Theils General-Consuln, Consuln, Vice-Consuln und Consular-Agenten zu ernennen, mit dem Vorbehalte jedoch, dergleichen an solchen Orten, die sie zu bestimmen sich veranlasst sehen, nicht zuzulassen. Die General-Consuln, Consuln, Vice-Consuln und Consular-Agenten, so wie deren Canzleibeamte, sollen, unter der Bedingung der Gegenseitigkeit, derselben Vorrechte, Befugnisse und Befreiungen theilhaftig sein, welche diejenigen der meistbegünstigten Nationen geniessen oder geniessen werden. ¶ Falls dieselben Handel treiben, haben sie sich denselben Gesetzen und Vorschriften zu unterwerfen, welchen die eigenen Ssaatsangehörigen an demselben Orte in Bezug auf ihre Handelsgeschäfte unterworfen sind.

Art. 16. Die Consuln, Vice-Consuln und Consular-Agenten eines jeden der hohen contrahirenden Theile sollen bei den Ortsbehörden jede Hülfe und jeden Beistand für die Aufsuchung, Verhaftung und Auslieferung der Seeleute und sonstiger zur Besatzung der Kriegs- oder Handelsschiffe ihres betreffenden Landes gehörenden Personen finden, die in einem auf dem Gebiete eines der hohen contrahirenden Theile belegenen Hafen desertirt sind. ¶ Zu diesem Zwecke

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écrit aux tribunaux, juges, ou fonctionnaires compétents, et justifieront par l'exhibition des registres du bâtiment, rôles d'équipages ou autres documents officiels, ou bien, si le navire était parti, par la copie des dites pièces dûment certifiée par eux, que les hommes qu'ils réclament ont réellement fait partie du dit équipage. ¶ Sur cette demande ainsi justifiée la remise ne pourra être refusée. ¶ Les dits déserteurs, lorsqu'ils auront été arrêtés, resteront à la disposition des Consuls, Vice-Consuls et Agents Consulaires et pourront même être détenus et gardés dans les prisons du Pays, à la réquisition et aux frais des Agents précités, jusqu'au moment où ils seront réintégrés à bord du bâtiment auquel ils appartiennent ou jusqu'à ce qu'une occasion se présente de les renvoyer dans le pays des dits Agents, sur un navire de la même ou de toute autre nation. ¶ Si pourtant cette occasion ne se présentait pas dans le délai de deux mois à compter du jour de leur arrestation ou si les frais de leur emprisonnement n'étaient pas régulièrement acquittés par la partie à la requête de laquelle l'arrestation a été opérée, les dits déserteurs seront remis en liberté, sans qu'ils puissent être arrêtés de nouveau pour la même cause. ¶ Néanmoins, si le déserteur avait commis, en outre, quelque délit à terre, son extradition pourra être différée par les autorités locales jusqu'à ce que le tribunal compétent ait dûment statué sur le dernier délit, et que le jugement intervenu ait reçu son entière exécution. ¶ Il est également entendu que les marins ou autres individus faisant partie de l'équipage, sujets du pays où la désertion a eu lieu, sont exceptés des stipulations du présent article.

Art. 17. Toutes les opérations relatives au sauvetage des navires Mecklenbourgeois naufragés sur les côtes de France, seront dirigées par les Consuls et Vice-Consuls du Grand Duché, et réciproquement les Consuls ou Vice-Consuls français dirigeront les opérations relatives au sauvetage des navires de leur nation naufragés ou échoués sur les côtes du Grand Duché. ¶ L'intervention des autorités locales aura seulement lieu dans les deux Pays pour maintenir l'ordre, garantir les intérêts des sauveteurs, s'ils sont étrangers aux équipages naufragés, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées. ¶ En l'absence et jusqu'à l'arrivée des Consuls et Vice-Consuls, les autorités locales devront, d'ailleurs, prendre toutes les mesures nécessaires pour la protection des individus et la conservation des effets naufragés. ¶ Il est de plus convenu que les marchandises sauvées ne seront tenues à aucun droit de douane à moins qu'elles ne soient admises à la consommation locale.

Art. 18. Les produits du sol et de l'industrie du Grand Duché jouiront, à leur importation en France ou en Algérie, de tous les avantages et faveurs qui sont accordés aux produits similaires du Zollverein en vertu du Traité

haben sie sich schriftlich an die Gerichte, Einzelrichter oder zuständigen Beamten zu wenden und durch Vorlegung der Schiffs-Register, Musterrollen oder anderer amtlicher Documente, oder, wenn das Schiff schon abgegangen ist, durch gehörig von ihnen beglaubigte Abschrift der gedachten Papiere nachzuweisen, dass die von ihnen reclamirten Personen wirklich zu der betreffenden Mannschaft gehört haben. ¶ Auf den in solcher Weise begründeten Antrag soll die Auslieferung nicht verweigert werden. ¶ Die gedachten Deserteure sollen, sobald sie verhaftet sind, zur Verfügung der Consuln, Vice-Consuln, und Consular-Agenten bleiben, und können, auf Antrag und auf Kosten dieser Agenten, selbst in den Gefängnissen des Landes festgehalten und bewahrt werden, bis sie an Bord des Schiffes, welchem sie angehören, wieder eingestellt werden, oder bis sich eine Gelegenheit zu ihrer Rücksendung in das Land jener Agenten auf einem Schiffe derselben oder irgend einer anderen Nation darbietet. ¶ Wenn eine solche Gelegenheit sich jedoch innerhalb einer Frist von zwei Monaten, von dem Tage ihrer Verhaftung an gerechnet, nicht darbieten sollte, oder wenn die Kosten ihrer Haft von dem Theile, auf dessen Antrag die Verhaftung erfolgt ist, nicht regelmässig entrichtet werden, so sollen die gedachten Deserteure wieder in Freiheit gesetzt werden, ohne dass sie wegen derselben Ursache von Neuem verhaftet werden können. ¶ Sollte indessen der Deserteur ausserdem irgend ein Vergehen am Lande verübt haben, so kann seine Auslieferung von der Ortsbehörde bis dahin hinausgeschoben werden, dass das zuständige Gericht über das letzte Vergehen rechtlich erkannt und das ergangene Erkenntniss seine vollständige Vollstreckung erlangt hat. ¶ Es ist gleichmässig verabredet, dass die Seeleute oder sonstigen zur Schiffsmannschaft gehörenden Personen, welche Unterthanen des Landes sind, wo die Desertion stattgefunden hat, von den Bestimmungen des gegenwärtigen Artikels ausgenommen sein sollen.

Art. 17. Alle Massregeln in Betreff der Rettung Mecklenburgischer an den Französischen Küsten gescheiterter Schiffe sollen von den Consuln und Vice-Consuln des Grossherzogthums geleitet werden, und eben so sollen die Französischen Consuln oder Vice-Consuln die Massregeln in Betreff der Rettung der an den Küsten des Grossherzogthums gescheiterten oder gestrandeten Schiffe ihrer Nation leiten. ¶ Die Einwirkung der Ortsbehörden soll in den beiden Ländern nur stattfinden, um die Ordnung aufrecht zu erhalten, um die Interessen derjenigen, welche die Rettung geleistet haben, insofern sie nicht zu der schiffbrüchigen Mannschaft gehören, zu wahren, und um die Ausführung der für den Eingang und den Ausgang der geborgenen Waaren zu beobachtenden Bestimmungen sicher zu stellen. ¶ In Abwesenheit und bis zur Ankunft der Consuln und Vice-Consuln sollen übrigens die Ortsbehörden alle zum Schutze der Schiffbrüchigen und zur Aufbewahrung der gestrandeten Sachen erforderlichen Massregeln zu treffen haben. ¶ Auch ist man übereingekommen, dass die geborgenen Waaren keiner Zollabgabe unterliegen sollen, es sei denn, dass sie in den innern Verbrauch übergehen.

Art. 18. Die Erzeugnisse des Bodens und des Gewerbfleisses des Grossherzogthums sollen bei ihrer Einfuhr in Frankreich oder Algier alle Vortheile und Begünstigungen geniessen, welche den gleichartigen Erzeugnissen des Zoll-

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de commerce du 2 Août 1862 et sous les conditions fixées par ce même Traité. ¶ Réciproquement, le Grand Duché s'engage à ne point élever le taux des taxes, de quelque nature qu'elles soient, qui sont actuellement applicables dans le Grand Duché aux produits du sol et de l'industrie de la France, à ne point en créer de nouvelles, à ne point établir d'exception, ni de limite à la libre introduction et circulation de ces produits. ¶ Le Gouvernement Grand Ducal se réserve toutefois la faculté de porter le maximum des droits d'importation actuellement perçus de trois francs quatre-vingt-douze centimes (3 fr. 92 c.) à sept francs cinquante centimes (7 fr. 50 c.) par cent Kilogrammes (tous droits compris.) ¶ Dans le cas où la taxe afférente aux vins d'origine française viendrait par suite du changement prévu au paragraphe précédent à dépasser cinq francs soixante-cinq centimes les cent Kilogrammes, le Gouvernement de l'Empereur demeurerait libre de faire cesser les effets du Traité dans un délai de trois mois à partir de l'établissement du droit nouveau.

Art. 19. Dans chacun des deux Pays, les fabricants et négociants de l'autre, ainsi que leurs commis-voyageurs, pourront faire des achats pour les besoins de leur industrie et recueillir des commandes, sans être tenus d'acquitter d'autres droits que les fabricants, négociants ou commis de la nation la plus favorisée. ¶ Aussi longtemps que les Commis-voyageurs étrangers seront tenus d'acquitter dans le Grand Duché un droit spécial, un impôt équivalent pourra être prélevé en France sur les Commis-voyageurs Mecklenbourgeois.

Art. 20. Les objets passibles d'un droit d'entrée qui servent d'échantillons et qui seront importés dans le Grand Duché par des voyageurs de commerce français, ou en France, par des voyageurs de commerce Mecklenbourgeois, seront de part et d'autre admis en franchise temporaire, moyennant les formalités de douane nécessaires pour en assurer la réexportation ou la réintégration en entrepôt. Ces formalités sont réglées par le Protocole annexé au présent Traité.

Art. 21. Les Hautes Parties Contractantes déclarent mutuellement reconnaître à toutes les compagnies et autres associations commerciales, industrielles et financières ainsi qu'aux sociétés à responsabilité limitée et autorisées suivant les lois particulières de l'un des deux Pays la faculté d'exercer leurs droits et d'ester en justice, soit pour y intenter une action, soit pour y défendre dans toute l'étendue du territoire de l'autre État, sans autre condition que de se conformer aux lois de cet État. Il est entendu que la disposition qui précède, s'applique aussi bien aux compagnies et associations constitutées et autorisées antérieurement à la signature du présent Traité qu'à celles qui le seraient ultérieurement.

Art. 22. En ce qui concerne les marques ou étiquettes de marchandises ou de leurs emballages, les dessins et modèles de fabrique ou de commerce, les sujets de chacun des États Contractants jouiront respectivement sur le territoire de l'autre de la même protection que les nationaux.

vereins nach Massgabe des Handels-Vertrages vom 2ten August 1862 und unter den in demselben festgesetzten Bedingungen zugestanden sind. ¶ Dem entsprechend verpflichtet sich das Grossherzogthum, den Tarif der Abgaben jeglicher Art, welche jetzt im Grossherzogthume für die Erzeugnisse des Bodens und des Gewerbfleisses Frankreichs gelten, nicht zu erhöhen, keine neuen zu schaffen, und keine Ausnahmen oder Beschränkungen in Bezug auf die Freiheit der Einbringung und des Vertriebs dieser Erzeugnisse einzuführen. ¶ Die Grossherzogliche Regierung behält sich jedoch die Befugniss vor, das Maximum der jetzigen Einfuhrzölle von drei Franken zwei und neunzig Centimen (3 Fr. 92 C.) auf sieben Franken funfzig Centimen (7 Fr. 50 C.) für hundert Kilogrammen (alle Nebengebühren eingerechnet) zu erhöhen. ¶ In dem Falle, dass die auf Weine Französischen Ursprungs gelegte Abgabe in Folge der im vorigen Absatze vorbehaltenen Abänderung auf mehr als fünf Franken und fünf und sechzig Centimen für hundert Kilogramme steigen sollte, bleibt es der Kaiserlichen Regierung freigestellt, die Wirkungen des Vertrags, nach einer dreimonatlichen Frist von der Einführung der neuen Abgabe an gerechnet, aufhören zu lassen.

Art. 19. In jedem der beiden Länder sollen Fabrikanten und Kaufleute des anderen, so wie deren reisende Diener, Einkäufe für das von ihnen betriebene Geschäft machen und Bestellungen suchen dürfen, ohne andere Abgaben als die Fabrikanten, Kaufleute und Handlungsdiener der meistbegünstigten Nation zahlen zu müssen. ¶ So lange auswärtige reisende Handlungsdiener im Grossherzogthume eine besondere Abgabe zu erlegen haben, soll in Frankreich eine gleiche Abgabe von den Mecklenburgischen reisenden Handlungsdienern wahrgenommen werden dürfen.

Art. 20. Eingangszollpflichtige Gegenstände, welche als Muster dienen und in das Grossherzogthum von Französischen Handlungsreisenden, oder in Frankreich von Mecklenburgischen Handlungsreisenden eingeführt werden, sollen beiderseits unter den zur Sicherstellung ihrer Wiederausfuhr oder Niederlegung in einem Packhofe erforderlichen Zollförmlichkeiten zeitweise zollfrei zugelassen werden. Diese Förmlichkeiten sind durch das dem gegenwärtigen Vertrage hinzugefügte Protokoll geregelt.

Art. 21. Die hohen contrahirenden Theile erklären gegenseitig, dass sie allen nach den besonderen Gesetzen des einen Landes erlaubten Handels-, gewerblichen und finanziellen Gesellschaften und sonstigen Vereinigungen, auch den Gesellschaften mit beschränkter Haftung, die Befugniss zuerkennen, im ganzen Umfange des Gebietes des anderen Staates ihre Rechte auszuüben und, sowohl als Kläger wie als Beklagte, vor Gericht zu stehen, unter der alleinigen Bedingung, sich nach den Gesetzen dieses Staates zu richten. Es versteht sich, dass die vorstehende Bestimmung eben so wohl für die schon vor der Unterzeichnung des gegenwärtigen Vertrages als für die erst in der Folge gegründeten und autorisirten Gesellschaften und Vereinigungen gilt.

Art. 22. In Bezug auf die Bezeichnung oder Etikettirung der Waaren oder ihrer Verpackung, die Muster und die Fabrik- oder Handelszeichen sollen die Unterthanen eines jeden der contrahirenden Staaten gegenseitig auf dem Gebiete des anderen denselben Schutz wie die Inländer geniessen.

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Art. 23. Les Hautes Parties Contractantes ne pourront accorder aucun privilége, faveur ou immunité concernant le commerce ou la navigation à un autre État, qui ne soit aussi, à l'instant, étendu à leurs sujets respectifs.

Art. 24. Le droit d'accession au présent Traité est réservé au Grand Duché de Mecklenbourg-Strelitz. Cette accession pourra se faire par un échange de Déclaration entre le Gouvernement français et celui du Grand Duché.

Art. 25. Le présent Traité restera en vigueur pendant douze années à partir de sa mise à exécution. Dans le cas où l'une des Hautes Parties Contractantes n'aurait pas notifié, douze mois avant la fin de la dite période, son intention d'en faire cesser les effets, il demeurera obligatoire jusqu'à l'expiration d'une année, à partir du jour où l'une des Hautes Parties Contractantes l'aura dénoncé. ¶ Les Hautes Parties Contractantes se réservent la faculté d'introduire, d'un commun accord, dans le Traité, toutes les modifications qui ne seraient pas en opposition avec son esprit ou ses principes.

Art. 26. Le présent Traité recevra son application, tant en France que dans le Grand Duché, le 1. Juillet de la présente année. ¶ Il sera ratifié, et les Ratifications en seront échangées à Paris dans le plus bref délai possible, et simultanément avec celles de la Convention relative à la propriété artistique, littéraire et industrielle, conclue le même jour. ¶ En foi de quoi, Les Plénipotentiaires respectifs ont signé le présent Traité et y ont apposé le cachet de leurs armes. ¶ Fait, en double expédition, à Paris, le 9 Juin 1865.

de Bornemann. (L. S.) *Drouyn de Lhuys.* (L. S.)

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Art. 23. Die hohen contrahirenden Theile dürfen keinem anderen Staate irgend eine Bevorzugung, Begünstigung oder Befreiung in Bezug auf Handel oder Schifffahrt bewilligen, welche nicht im selben Augenblicke auch auf ihre respectiven Unterthanen erstreckt wird.

Art. 24. Dem Grossherzogthum Mecklenburg-Strelitz wird das Recht des Beitritts zum gegenwärtigen Vertrage vorbehalten. Dieser Beitritt kann durch einen Austausch von Erklärungen zwischen der Französischen Regierung und derjenigen des Grossherzogthums bewerkstelligt werden.

Art. 25. Der gegenwärtige Vertrag soll während eines Zeitraums von zwölf Jahren, vom Zeitpunkte seiner beginnenden Geltung an gerechnet, in Kraft bleiben. Falls nicht einer der hohen contrahirenden Theile zwölf Monate vor dem Ablaufe des gedachten Zeitraums seine Absicht, die Wirkungen desselben aufhören zu lassen, kundgegeben haben sollte, bleibt er in Geltung bis zum Ablaufe eines Jahres von dem Tage ab, wo einer der hohen contrahirenden Theile ihn gekündigt hat. ¶ Die hohen contrahirenden Theile behalten sich die Befugniss vor, durch gemeinsame Verständigung in den Vertrag jederlei Abänderungen aufzunehmen, die nicht mit dem Geiste und den Grundlagen desselben in Widerspruch stehen.

Art. 26. Der gegenwärtige Vertrag soll seine Geltung, sowohl in Frankreich als in dem Grossherzogthume, mit dem 1sten Julius des gegenwärtigen Jahres erlangen. ¶ Seine Ratification, und die Austauschung der Ratifications-Urkunden in Paris, soll sobald als möglich erfolgen, und zwar gleichzeitig mit derjenigen der an demselben Tage abgeschlossenen Convention in Betreff des künstlerischen, literarischen und gewerblichen Eigenthums. ¶ Zu Urkund dessen haben die beiderseitigen Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet und ihre Siegel beigedruckt. ¶ So geschehen, in doppelter Ausfertigung, zu Paris am 9. Junius 1865.

von Bornemann. (L. S.) *Drouyn de Lhuys.* (L. S.)

No. 1854.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär für die auswärtigen Angelegenheiten. — Betrachtungen über den Fall von Vicksburg und die wachsenden moralischen Erfolge d. Vereinigten Staaten in Grossbritannien. —

Legation of the United States, London, July 23, 1863.

No. 1854. Vereinigte Staaten, 23. Juli 1863.

Sir, — I have to acknowledge the reception of a telegram dated the 7th instant, giving the satisfactory intelligence of the fall of Vicksburg. I communicated this news at once, by telegraph, to Mr. Dayton, at Paris. ¶ So completely has the public become convinced of the correctness of the representations continually made in the London press of the desperate condition of our affairs, and of the triumphal progress of General Lee, that the expectation was almost universal to hear of his taking possession of Washington. Much of panic had pervaded the minds even of many loyal Americans here, who found themselves unable to resist the pressure of the atmosphere around them. The astonishment created by the announcement of the actual facts on Sunday may well be imagined to have been in corresponding proportion. I need not add that the disappointment amongst the English was quite in the same measure. Many of the newspapers at first refused to believe in the surrender of Vicksburg. ¶ The evidence thus obtained of this truth does not, however, appear to render any change necessary in the policy heretofore adopted by America towards Great Britain. That policy is the preservation of peace as the main instrument, not so much to alter these feelings as to guard against the evil effects of them. The chief hope being that the disruption of the Union might be the inevitable consequence of the present contest, our aim obviously can be no other than to persevere to the end of a complete restoration. The position of Great Britain should be set up as a beacon to warn us against the danger of domestic divisions for at least a century to come. We have a mission to fulfil. It is to show, by our example to the people of England in particular, and to all nations in general, the value of republican institutions. There is now a sanguine expectation that by reason of our incompetency to meet the immediate emergency, that mission may be shown to have failed, and those institutions correspondingly discredited. The greatest triumph of all would be to prove these calculations vain. In comparison with this, what would be the gain to be derived from any collision with the powers of Europe? ¶ In the meantime the indications of uneasiness in the relations of the continental powers continue very marked. The Emperor of Russia is evidently preparing for difficulties in the spring. And although the ministry here have taken pains to announce their determination not to press matters about Poland to the point of war, there is some fear lest the French Emperor should be able to involve Great Britain in it, as he did in 1854, by the pressure of the popular sentiment. Parliament is on the eve of prorogation.

The customary interval of repose in Europe is expected to take place, which will probably operate as a relief to us as well as to all other civilized nations. I trust that we may be enabled so far to improve it as to render the inducements to ultimate interference by no means commensurate with the danger of attempting it.

No. 1854. Vereinigte Staaten, 23. Juli 1863.

Charles Francis Adams.

Hon. **William H. Seward,** Secretary of State, &c.

No. 1855.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Die Sympathien Frankreichs und Englands für die s. g. Conföderirten Staaten. —

Department of State, Washington, July 30, 1863.

No. 1855. Vereinigte Staaten, 30. Juli 1863.

Sir, — I have your despatch of the 16th of July, which informs me of Mr. Roebuck's withdrawal of his motion for a recognition of the insurgents on the 13th instant. A careful observation of events as they were transpiring in Great Britain had prepared us for this result. ¶ The concurrence of many important incidents entitles us to regard the present hour as a crisis of our civil war. The campaign in Virginia, Ohio, Tennessee, Mississippi, and Louisiana, although it had been well matured, and was prosecuted with great assiduity and unsurpassed heroism, was, nevertheless, attended, until recently, by discouraging delays, reverses, and disasters. The insurgents had gotten up with much skill and energy a loan abroad, based on an assumption of their eventual success, which seemed to promise them an available and durable credit in the European market. This achievement enabled them to employ, without stint, many artificers of Great Britain, and some other countries, in furnishing all the materials and machinery of land and naval warfare, while they threatened to constrain the world's manufactures into an advocacy of their sovereignty and independence. Successes like these procured for them political agencies in France and Great Britain, which, repressing the national sentiments of those countries, and stifling even their sympathies with the cause of progress and humanity in Europe as well as in America, made it seem for a time, at least, probable that the two powers, which are the most dominating and, therefore, the most interested in the stability of this nation with its free government and liberal institutions, would combine to overthrow, devastate and destroy whatever of government, commerce and culture had been created on this continent. The conspiracy against our country, which thus flourished apparently unchecked in so many of the slave States, and which had effected such startling combinations in Europe, borrowed aid which cannot be condemned or deplored too much, from interests in the loyal States that counselled the obtaining of peace, indolence, personal exemptions and partisan advantages at the imminent hazard, if not at the certain cost, of even a dissolution of the Union, and a surrender as well of the liberties of the country as of its hitherto supposed well assured and beneficent destiny. This

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concurrence of signs, favorable to the success of the insurrection, raised the hopes of its authors to a state of presumption. They broke and trampled upon the cartels of military exchanges, defied and despised well-prepared assaults, set on foot invasions of the loyal States, and demanded passage and admission for a representative, on equivocal pretences, at Washington. Such audacity is of itself, for a season, and in favorable circumstances, no contemptible element of political force. ¶ But the imposing fabric of insurgent expectations has been suddenly shattered. The campaigns, so long unsuccessful, have culminated in victories which, as a whole, are as demonstrative and fruitful as, perhaps, ever attended any combination of military and naval movements when the theatre was a continent. The basis has fallen out of their fiscal system. Their pretended securities sell at the rate of nine cents on the dollar at home, where, at last, their value abroad must always be ascertained. The insurgents must hereafter base their claims on foreign nations for material and capital—not, as heretofore, upon promises of speculative profit, but upon the charity of contributors. France and Great Britain, relieved of artificial and exaggerated importunities, will have abundant leisure to consider the morality and justice of recognition, as well as the possible dangers and evils which may attend the attempt to renew European domination on a continent that, with very opposite ideas of government and social sentiments, is rapidly advancing to an equality in population, wealth and power with Europe itself. It begins to be seen that, although, like every other country, the United States are not exempt from faction, yet, the people need only to see and to realize any new national danger, and time to measure the amount of sacrifices required, to avert it. When they have done this, the last sacrifices are as cheerfully made as the first. Arrogance, menace, and military severity on the part of the insurgents have given place to spasmodic demands for new and final levies of men and money, now discovered to be essential for mere self-defence. ¶ What is the instruction of this crisis? I do not forget that war, especially civil war, is capricious. I know very well that the rainbow, which appears when the clouds have parted, is not always a sure sign that even worse tempests are not gathering in the political skies. Nevertheless we must act upon such indications as Providence is pleased to favor us with, always applying to them the test of experience. One of the instructions of experience is, that, usually, a short and convulsive life is appointed to factions, while nations, like individuals, though obliged to encounter many successive and fearful dangers, are yet created to endure and fulfil great ends. So we regard the present stage of this contest as reassuring us of the ultimate deliverance of the country, and the salvation, in their full extent, of its territory and its free institutions. ¶ At the moment, however, when we are accepting this satisfactory view, we find that we are drifting, notwithstanding our most earnest and vigorous resistance, towards a war with Great Britain. Our commerce on the high seas is perishing under the devastation of ships-of-war that are sent out for that purpose from British coasts, by British subjects, and we hear of new corsairs and more formidable armaments of that kind, designed even to dislodge us from the military occupation of insurgent ports and to burn and destroy our principal cities, and

these armaments, it is represented to us by imposing British authorities, the government of Great Britain is not authorized by the laws of the realm to restrain. It cannot be deemed offensive to say that at any period of our history when we were not suffering from intestine war, these injuries would not have been borne. At least it is true that they were not attempted until we were seen to have fallen upon the calamities of civil war. Great Britain might ask herself whether, if a similar opportunity for such hostilities should offer, she would consent to bear like assaults upon her commerce and her sovereignty. I know no one point of political calculation more certain than this, that just what the people of Great Britain would do, under defined circumstances, in selfdefence, that is what, under the same circumstances, the people in whose name I am writing must and will do in their own defence. ¶ I would, if properly I could, shut out from consideration another element which enters into the case. Great Britain has at no time intimated that, even with the co-operation of France, she would adopt or sanction a war or a hostile policy against the United States. Her government has on apt occasions indicated a very different and much more just disposition. We respect the government and people of Great Britain for her persistence in these indications. Nevertheless we have the personal authority of the Emperor of the French for the fact that he has announced to Great Britain that he is willing to follow, if Great Britain will decide to lead the way, in recognizing the insurgents. To give such a recognition, under the circumstances, would be to them a demonstration more potential than a fleet or an army, while it would authoritatively sanction the piratical enterprises of British subjects, which, even when disavowed by Great Britain, are proving intolerable to the United States. At the same time it is to be observed that Great Britain as well as France has been explicitly informed by the United States that a recognition of the insurgents would necessarily be deemed by them an unfriendly proceeding. Virtually, therefore, France invites Great Britain to an alliance offensive and injurious to the United States. Judging with the light which falls upon our position, such an alliance would be morally wrong; for of what crime against both or either of these two nations, or against any nation, are the United States accused? What unatoned wrong have they done which France and Great Britain are entitled by the law of nations to redress? The United States have fallen, not without forty years of protracted resistance, into a state of civil war which is an inconvenience to other maritime and commercial powers. Has either Great Britain or France, or any other nation, sinned less against the peace of the world than the United States? If ever a nation could plead successfully the irrepressibility of the elements of a civil strife, it is the United States on this occasion. World-planted and cherished African slavery here has audaciously risen up to overthrow a government, the most equal and just that has ever been established among men, and to erect a new one exclusively upon the basis of human bondage. The United States refuse to be destroyed or divided by such an agency for such a purpose. It is not easy, on this side of the Atlantic, to conceive how such a civil war can be looked upon with favor, or even with indifference, in Europe. We have, nevertheless, accepted the fact that Great Britain and France

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do regard this insurrection with favor on the demand of the statesmen and presses which seem most to engage the confidence of the people in those countries. France now requires us to go one step further and to accept the fact that Great Britain and herself ought to vote for the admission of the insurgents into the family of nations. The ground upon which the Emperor favors that extraordinary proceeding is, that it is expected that it would tend to bring our unhappy civil war to a close. I forbear from pressing the consideration that such a proceeding to enforce peace, in the United States, would be immoral, or the consideration that acceptance of a peace thus compelled would be suicidal. Those who should be prepared for an attempt either to subjugate the United States by force or to divide and separate them by foreign influence, could not be expected to apprehend the sensibilities and the sentiments which prevail among the people whom it is proposed in that extraordinary way to pacify. ¶ Alliances may, indeed, be made by monarchs and statesmen; but, after all, they must depend for support and continuance upon the allied peoples and nations themselves. France and Great Britain are now equals. The statesmen of France and of Great Britain, if the project of an alliance were indeed seriously entertained, could not, I think, begin too soon to study how the expenses and the losses, and the profits and benefits, which must attend or follow it, shall be equitably allotted between the two countries. ¶ I have thus surveyed not only our domestic situation, but also the entire position of our relations with the chief maritime powers, not because it is seriously apprehended here that either alone or in alliance with France, Great Britain is now about to adopt the injurious and unfriendly measure which the Emperor of France has indicated, but because the survey furnishes a basis for the renewal, under the President's instructions, of a suggestion which has for some time been held in abeyance—namely, that all the misunderstandings which have arisen between the United States and Great Britain, including those which now seem to be causing the two countries to be drifting towards a conflict which must be calamitous, are due to the premature recognition of the insurgents as a belligerent power, and that two years of experience have confirmed the wisdom and the justice of the protest that this government made against that extraordinary proceeding. The insurrection, notwithstanding the incalculable benefits it has received from that most unfortunate measure, has, nevertheless, languished from the very beginning, and has now descended so low that manifestly it would perish at once, if it were left like the late insurrection in India, like the insurrection which a few years ago occurred in Canada, like the chronic insurrections in Spanish America, or even like the insurrection now raging in Poland, to stand by means of its own strength, not as a recognized belligerent, but as a domestic party, aiming to revolutionize the government that it refuses to obey. I know how difficult it would be for the government of Great Britain all at once to reverse the policy of which we have never ceased to complain, even though it might be conceded that that policy had been unnecessarily adopted. But every new demand that is made upon that government for toleration of designs hostile to the United States relates back to the premature recognition of the insurgents as a belligerent, and strains to con-

vert it into not merely a recognition of their sovereignty, but into actual war against the United States. Recurring to the sentiments which the President expressed in the beginning of these unhappy troubles, I am authorized to tender to Great Britain assurances of the desire of the United States for the removal of every cause of alienation, and for the reestablishment of the relations between them on the foundations of common interest and of affections and sympathies which, if left unopposed, would hold them together in the bonds of enduring friendship. We invite her to weigh these advantages against the promised benefits of any hostile alliance that she can form against us. We are yet friends, though that friendship has been severely tried. If we must become enemies, the responsibility of that unhappy and fearful event will rest on her Majesty's government and the people of Great Britain. ¶ It is not intended that you shall formally communicate the contents of this paper to Earl Russell, but that you will use its suggestions and arguments in your own discretion if circumstances shall seem to you to require or to favor the introduction of the serious topics which I have thus discussed. ¶ I am, &c.

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William H. Seward.

Charles Francis Adams, Esq.

No. 1856.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Erfolge der V.-St. gegen die Secessionisten, nebst Darstellung des Verlaufs d. Bürgerkrieges vom August 1862 an. —

Department of State, Washington, August 12, 1863.

Sir, — Whenever the United States have complained of the premature decrees of Great Britain and France, which accorded the character of a belligerent to the insurgents, the statesmen of those countries have answered, that from the first they agreed in opinion that the efforts of the government to maintain the Union, and preserve the integrity of the republic, could not be successful. With a view to correct this prejudgment of so vital a question, I addressed a circular letter to the representatives of the United States in foreign countries on the 14th day of April, 1862, in which I reviewed the operations of the war on sea and land, and presented the results which had attended it down to that period. The prejudice which I then attempted to remove still remains, and it constitutes the basis of all that is designedly or undesignedly injurious to this country in the policy of foreign nations. The insurgents have been enabled to protract their resistance by means of sympathy and aid they have received from abroad, and the expectation of further and more effective foreign assistance is now their chief resource. A new effort, therefore, to correct that prejudice is demanded equally by a prudent concern for our foreign relations, and by the paramount interests of peace and humanity at home. ¶ In the battles of August, 1862, the Union forces suffered some severe and appalling reverses. But they resulted in the reunion of the army which had been called in from the Peninsula, below Richmond, with

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the army which had its position between that strongly fortified seat of the insurrection and this capital. The wisdom of this reunion was soon to be vindicated. The insurgent army, flushed with its recent successes, and expecting that a sympathetic interest of slavery would produce an uprising of the people of Maryland in its favor, for the first time crossed the Potomac river. Harper's Ferry, with many prisoners, fell into its hands, rather through accidents in preparing for its defence than because it was indefensible. Nevertheless, the expectation of recruits signally failed. General McClellan, commanding the now consolidated forces of the army of the Potomac, was re-enforced by fresh levies from Pennsylvania, and by detachments called in from neighbouring forts. He drove the insurgents from their positions at South Mountain and Crampton's Gap. About the middle of September the two opposing armies confronted each other at Sharpsburg, and a pitched battle was fought on the banks of the Antietam and Potomac. It was well sustained on both sides. Men of one race and training directed the armies whose rank and file were substantially of one blood, and even nearly equal in numbers. The arrogant assumption of superior valor and heroism which the insurgents had brought into the contest, and had cherished throughout its early stages, perished on that sanguinary field. The insurgent army, shattered in the conflict, abandoned the invasion of Maryland and sought refuge and opportunity to recover its wasted strength in Virginia, behind its accustomed barrier, the Potomac. ¶ While Lee was thus attempting Maryland, the equally bold and alarming enterprise of carrying the war through Kentucky into Ohio was assigned to Bragg, who was in command of the insurgent army on the southern border of Tennessee. He, with great rapidity, moved from Chattanooga, turning the left flank of General Buell, and, appealing for re-enforcements to the slavery-inspired sentiments which existed in Kentucky and Tennessee, directed his forces against Louisville and Cincinnati. An uprising of the farmers of Ohio confronted and turned away the devastation from the latter city. General Buell followed the main column of invasion, outmarched it on the way to Louisville, and obliged it to take a direction eastward. The two insurgent columns being united at Perryville, were attacked by General Buell. The battle, like all of our contests, was obstinate and bloody. Bragg, after severe losses, retreated through a comparatively barren region, and Buell was obliged to abandon the pursuit by the complete exhaustion of all the sources of supply. The insurgent commander crossed the Cumberland mountains, and then, marching westward, took up a position at Murfreesboro', fortified there, and proceeded to recruit his wasted forces. ¶ Van Dorn and Price were at the same period in command of very considerable forces in Mississippi and Alabama, and to them was assigned the third part in the grand invasion of the loyal States which the cabal at Richmond had decreed. This was an attempt, as they called it, to deliver, but in fact to subjugate, western Tennessee and Kentucky. General Rosecrans received the assault of those portions of the insurgent forces at Corinth, defeated them with great slaughter, and drove them backward, so that they neither reached nor approached the region which they were appointed to invade. General Rosecrans, called to succeed General Buell in command of the army of the Cumberland,

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then entered Nashville, which the insurgents had before invested in carrying out their general scheme of invasion. He raised the siege, and prepared for offensive action. In the last days of the year he issued from Nashville, and delivered a sanguinary battle at Stone river, which gave him possession of Murfreesboro'. Bragg retreated to Shelbyville and Tullahoma, and there again rested and intrenched. A long period of needed rest was now employed by the respective parties in increasing the strength and efficiency of their armies; but this repose was broken by frequent skirmishes, and by cavalry expeditions, which penetrated hostile regions, sometimes hundreds of miles, and effected breaches of military connexions and a destruction of military stores upon an extensive scale, while they kept up the spirit of the troops, and hardened them for more general and severe conflicts. ¶ Vicksburg then remained in the hands of the insurgents, the principal key to the navigation of the Mississippi river — a navigation which was confessed on all sides to be absolutely essential to the United States, and, when reopened by them, fatal to the insurrection. The duty of wresting that key from the insurgents had been devolved on the navy, with the aid of a considerable land force then encamped on the west bank of the Mississippi river. But new and unforeseen difficulties continually baffled the enterprise, and seemed to render it impossible. General Grant, who was at the head of the department and of the army of the Tennessee, at length assumed the active command of the troops investing the stronghold, and these were adequately re-enforced. The naval squadron on the Mississippi, under command of Rear-Admiral Porter, was also steadily increased until more than one hundred armed vessels were employed upon the river, including many iron-clad gunboats of great power. Part of the Gulf squadron, under Admiral Farragut, gallantly running the batteries of Port Hudson under a fierce fire, co-operated with the river fleets. Laborious and persevering attempts were made to open an artificial channel for the river opposite Vicksburg, as had been done with such signal success at Island No. 10. But the various canals projected and executed failed, and only a few small steamers of no considerable power were thus enabled to pass the city. Combined land and naval expeditions were also sent forth, which, with infinite pains and endurance, attempted to turn the enemy's works by navigating the various bayous and sluggish rivers, whose intricate network forms so singular a feature of the military topography of the banks of the Mississippi. All these attempts having failed from physical obstacles found to be insurmountable, General Grant and Admiral Porter at last put afloat armed steamers and steam-transports, which ran through the fires of the long line of shore batteries which the insurgents had erected at Vicksburg, and its chief supports, Warrenton and Grand Gulf. At the same time the land forces moved down the right bank of the river to a point below Grand Gulf, where they crossed in the steamers which had effected so dangerous a passage. The batteries of Grand Gulf for several hours resisted a bombardment by the gunboats at short range, but they fell into the hands of the Admiral as soon as General Grant's forces appeared behind them. General Grant, through a series of brilliant manœuvres, with marches interrupted by desperate battles day after day, succeeded in dividing

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and separating the insurgent forces. He then attacked the chief auxiliary column under Johnston and drove it out of Jackson, the capital of Mississippi. Having destroyed the railroad bridges and military stores there, General Grant turned at once to the west. Numerous combats ensued, in all of which the loyal arms were successful. Loring, with a considerable insurgent force, was driven off towards the southeast, while Pemberton, after a loss of sixty pieces of artillery and many prisoners, regained his shelter within the fortified lines of Vicksburg, with an army now reduced to between thirty thousand and forty thousand men. During those movements the heavy batteries of the insurgents which were established near the mouth of the Yazoo river, and which constituted an important part of the defensive system of Vicksburg, were taken and razed by Rear-Admiral Porter, who thereupon sent a detachment of his fleet up that important tributary of the Mississippi, and effectually destroyed the numerous vessels and stores which were found within and upon its banks. General Grant, during these brilliant operations, had necessarily operated by a movable column. He now re-established his communications with the river fleets above as well as below Vicksburg, invested the town, and, ignorant of the numbers enclosed within its defences, atempted an assault. Though bravely and vigorously made, it was nevertheless unsuccessful. He thereupon sat down before the fortifications, to reduce them by the less bloody, but sure, methods of siege. Pemberton made a gallant defence, hoping for relief from Johnston. Strenuous efforts were made by the chiefs at Richmond to enable Johnston to render that assistance. They detached and sent to him troops from Bragg's army on the frontier of Alabama, and from Beauregard's command in South Carolina, and in doing this they endangered both of those armies. All the capable free men of Mississippi were called to the rescue of the capital of their State, and to save the stronghold of the treasonable confederacy which was besieged within their limits. Moreover, the besieged post was in the very centre of the slave population of that confederacy, and the President's proclamation of freedom would be sounded in their hearing if the stronghold should fall. But the effort required was too great for the demoralized and exhausted condition of the insurgents. Johnston did not arrive to raise the siege, nor did success attend any of the attempts from within to break the skilfully drawn lines of General Grant. On the fourth of July General Pemberton laid down his arms and surrendered the post, with thirty thousand men, two hundred pieces of artillery, seventy thousand small arms, and ammunition sufficient for a six years' defence. This capture was as remarkable as the famous one made by Napoleon at Ulm. ¶ On the same day an insurgent attack upon General Prentiss, at Helena, situated on the right bank of the Mississippi, in the State of Arkansas, was repulsed with the loss of many prisoners on the part of the assailants. As if the anniversary so identified with the nation's hopes was appointed to be peculiarly eventful, Lee, who had again entered Maryland, and passing through that State had approached the Susquehannah, threatening Harrisburg, Pittsburg, Philadelphia, and Baltimore, fell back, after pitched battles continued for three days at Gettysburg, and resumed his retreat, with an army even worse shattered

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than before, to his accustomed position on the Rappahannock. ¶ On the eighth of July the insurgent garrison at Port Hudson, six thousand strong, after enduring a long siege with the utmost courage, surrendered unconditionally to General Banks; and thus the United States recovered from the insurgents the last of the numerous posts by which for more than two years they had effectually destroyed the navigation of the Mississippi. This great river, which in time of peace contributes relatively as much towards a supply of the increased wants of mankind as the Nile did to those wants in the time of the Roman Empire, is now again opened to the inland commerce of the country. Steamers descend the river and its tributaries from the navigable floods to the Gulf of Mexico. It is not to be doubted that the insurgent losses in these operations upon the Mississippi amount to fifty thousand men and three hundred pieces of artillery, a large portion of which were of heavy calibre. Johnston's army, which, at the time of the surrender, was advancing to threaten the besiegers, at once fell back to Jackson, and it was again driven from that capital by a detachment which General Grant had committed to the command of General Sherman. In retiring, Johnston fired many buildings filled with munitions of war, and abandoned a large quantity of railroad locomotives and cars, which had been detained at that place by reason of the railroads north, south, east, and west of Jackson having been previously cut by the government forces. ¶ General Sherman now desisted from the pursuit of Johnston and returned to Vicksburg, where a portion of the army is enjoying repose, not more necessary than well earned, while others are engaged in expelling from the vicinity of the Mississippi roving bands of the insurgents who infest its banks and fire from thence upon passing steamers. It is reported that Johnston, with the troops at his command, now said to be twenty-five thousand, has fallen back to Meridian, on the eastern border of Mississippi, a hundred and twenty miles east of Vicksburg, so that de State, whose misguided people were among the earliest and most intemperate abettors of the insurrection, is virtually abandoned by its military agents. ¶ In Louisiana, General Banks succeeded General Butler. After spending some months in organizing the department and disciplining the new levies which constituted its force, General Banks made a rapid and successful series of marches and contests, in which he drove the insurgent troops out of the Attakapas and Teche regions, well known as the richest portions of that very productive State, captured Alexandria and Donaldsonville, the seats of its fugitive seditious executive and legislative authorities, crossed the Mississippi at Bayou Sara, and there receiving an additional column which was ascending from Baton Rouge, invested Port Hudson, which, excluding Vicksburg, was the only remaining stronghold of the insurrection on the great river. ¶ It will be remembered that on the 22d day of September, 1862, the President issued a proclamation requiring the insurgents to lay down their arms and return to their allegiance, under the penalty that in all the districts where the insurrection should be still maintained with the support of the people, he would on the first of January then next proclaim as a military measure the freedom of the slaves. The warning was generally rejected and defied, but the proclamation which it heralded was duly issued.

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As the national armies advanced into the insurrectionary territories, slaves in considerable numbers accepted their freedom and came under the protection of the national flag. Amidst the great prejudice and many embarrassments which attended a measure so new and so divergent from the political habits of the country, freedmen with commendable alacrity enlisted in the federal army. There was in some quarters a painful inquiry about their moral capacity for service. That uncertainty was brought to a sudden end in the siege of Port Hudson. The newly raised negro regiments exhibited all necessary valor and devotion in the military assaults which were made, with desperate courage, and not without fearful loss, by General Banks. This protracted operation engaged nearly all of General Banks's available forces. While it was going on, insurgent troops which were called up from Texas reoccupied much of the southwestern portion of Louisiana which he had before reclaimed. The surrender of Port Hudson, however, set his army at liberty, and he has already made considerable progress in restoring the national authority thus temporarily displaced. ¶ The complete occupation of the Mississippi by the national forces has effectually divided the insurrectionary region into two parts; and among the important features of this division, one which is of the highest practical signifiance is, that the field of military operations of the insurrection is chiefly on the eastern side of the river, while its supplies have been mainly drawn from the prairies of Arkansas and Texas, which stretch away from the western shore. These prairies can no longer supply the insurgents with cattle for sustenance and use in the field, and, on the other hand, arms, ordnance, and ammunition can no longer be sent from the eastern manufactories and deposits to forces employed or in garrison in the west. The value of the acquisition of the Mississippi in this respect was illustrated only a few days since in the capture by General Grant, near Natchez, of five thousand beeves and two thousand mules which had crossed to the eastern bank, and at the same time many hundred thousands of cartridges and other stores which had just been landed at the western end of the same ferry. ¶ A vigorous blockade has been maintained at Charleston; and although fast steamers of light draught, and painted with obscure colors, occasionally succeed in slipping through the blockading squadron in the morning and evening twilight, many are destroyed, and more are captured. An attack by the fleet made on the seventh day of April last, upon the forts and batteries which defend the harbor, failed because the rope obstructions in the channel fouled the screws of the iron-clads and compelled them to retire after passing through the fire of the batteries. Those vessels bore the fire of the forts, although some defects of construction were revealed by the injuries they received. The crews passed through an unexampled cannonade with singular impunity. Not one life was lost on board of a monitor. The defects disclosed have been remedied, and an attack is now in progress, with good prospect of ultimate success, having for its object the reduction of the forts in the harbor by combined sea and land forces. We occupy more than half of Morris's island with land forces, which, aided by batteries afloat and batteries ashore, are pushing siege works up to Fort Wagner, a strong earthwork which has been twice assaulted with great gallantry, but without success. On the 17th of June

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the Atlanta, which was regarded by the insurgents as their most formidable iron-clad vessel, left Savannah, and came down the Wilmington river. The national iron-clads Weehawken, Captain John Rogers, and Nahant, Commander John Downes, were in readiness to meet her. At four o'clock fifty-four minutes the Atlanta fired a rifle shot across the stern of the Weehawken, which struck near the Nahant. At 5.15 the Weehawken, at a range of three hundred yards, opened upon the Atlanta, which had then grounded. The Weehawken fired five shots, four of which took effect on the Atlanta. She surrendered at five o'clock and thirty minutes. ¶ Our lines have not changed in North Carolina. All attempts of the insurgents to recapture the towns from which they had been expelled had been repulsed. Much damage has been inflicted upon their communications, and valuable military stores have been destroyed by expeditions into the interior. North Carolina shows some symptoms of disaffection towards the insurgent league. Similar indications are exhibited in Mississippi, Alabama, Arkansas and Texas.

The situation on the York and James rivers has remained unchanged since the withdrawal of the army of General McClellan from the Peninsula a year ago. Attempts by the insurgents to retake Williamsburg and Suffolk have been defeated, but the garrison at the latter place has been withdrawn, for purely military reasons, to a more defensible line. ¶ I now return to the army of the Potomac, which was left resting and refitting after putting an end to the first insurgent invasion of Maryland. General McClellan recrossed the Potomac and entered Virginia in November, and obliged the invading forces under Lee to fall backward to Gordonsville, south of the Rappahannock. When the army of the Potomac reached Warrenton it was placed under command of General Burnside. He marched to Falmouth, hoping to cross the Rappahannock at Fredericksburg, and to move at once upon Richmond. Delays, resulting from various causes, without fault of the general, permitted the insurgents to occupy the heights of Fredericksburg, and when, at length, in December, General Burnside crossed the Rappahannock, his assault upon Lee's well fortified position failed. He skilfully recrossed the river without loss. General Hooker succeeded to the command, and it was not until the beginning of May that the condition of the river and roads permitted a renewal of offensive operations. The general crossed the Rappahannock and accepted a battle, which proved equally sanguinary to both parties, and unsuccessful to the army of the Potomac. The heights of Fredericksburg were captured by General Sedgwick's corps, but the whole army was compelled to return to the north bank of the river. After this battle, Lee, in the latter part of May and in June, withdrew his army from General Hooker's front, and ascended the south bank of the Rapidan, towards the sources of the Rappahannock, entered the Shenandoah valley, and once more tempted the fortune of war by invading the loyal States. A severe cavalry engagement at Beverly Ford unmasked this movement. The army of the Potomac broke up its camps and marched to the encounter. The militia of Maryland, Pennsylvania, and New York flew to arms, and occupied Baltimore, Harrisburg, and the line of the Susquehanna. The two armies met at Gettysburg, in Pennsylvania, and after a fierce contest of three days' duration, and terrible slaughter on both sides, the

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insurgents recoiled from the position held by General Meade, who had then been only four days in command of the army of the Potomac. On the 4th of July, the day of the surrender of Vicksburg, Lee retreated, passing through Chambersburg and Hagerstown, to Williamsport, where the proper disposition to attack him was made by General Meade. Deceived concerning the state of the river, supposed to be unfordable, General Meade, hourly expecting re-enforcements, delayed the attack a day too long, and the insurgents, partly by fording and partly by floating bridges, succeeded in withdrawing across the river by night, with their artillery and a great part of their baggage. Much of this baggage, as well as of the plunder which Lee had collected, was destroyed by cavalry, or thrown out of the wagons to make room for the wounded whom Lee carried off from the battle-field. He had buried most of his dead of the first day's conflict at Gettysburg. The remainder, together with those who fell on the second and third days of the battle, in all forty-five hundred, were buried by the victorious army. Many thousand insurgents, wounded and captives, fell into the hands of General Meade. It is not doubted that this second unsuccessful invasion cost the insurgents forty thousand men. Our own loss was severe, for the strife was obstinate and deadly. General Meade crossed the Potomac. Lee retired again to Gordonsville, where he is now understood to be in front of our forces. ¶ While the stirring events which have been related were occurring in the east and in the west, General Rosecrans advanced upon Bragg, who, with little fighting, hastily abandoned his fortified positions of Shelbyville and Tulahoma, in Southern Tennessee. General Rosecrans took, and yet holds them, while Bragg with severe loss in a hurried retreat, has fallen back to Chattanooga. It is understood that his army had been already much weakened by detachments sent from it to re-enforce Johnston, with a view to a raising of the siege of Vicksburg. ¶ I must not overlook the operations of cavalry. General Stoneman, in connexion with the movement upon Chancellorsville, made a rapid and effective passage through the insurgent country, from the Rappahannock to the York river, which will be remembered among the striking achievements of the war. While our forces were operating against Vicksburg and Port Hudson, Colonel Grierson, with a force of fifteen hundred men, left Corinth, on the northern border of the State of Mississippi, and made an expedition, in which he broke military communications, destroyed stores, and effected captures through the length and breadth of the State, and finally, without serious loss, joined the army of General Banks, then engaged in the siege of Port Hudson. ¶ John Morgan, hitherto the most successful of the insurgent partisans, recently passed around the lines of General Burnside, and crossed the States of Tennessee and Kentucky. Moving northward, and avoiding all large bodies of our troops, he reached the Ohio river at Brandenburg, below Louisville, and seized two steamboats, with which he crossed into Indiana. Thence proceeding rapidly eastward, subsisting on the country and impressing horses as his own gave out, he traversed a portion of Indiana and nearly the whole breadth of Ohio, destroying railroad stations and bridges, and plundering the defenceless villages. The people rallied to arms under the calls of their governors. Some of them occupied the most important points,

while others barricaded the roads or hung upon the rear of the intruders. Morgan found no disaffected citizens to recruit his wasted ranks, and when he reached the Ohio his force was prevented from crossing by the gunboats and driven backward with great slaughter. His force was between two thousand five hundred and four thousand horse, with several pieces of artillery. Only some three hundred succeeded in recrossing the Ohio and escaping into the wilds of Western Virginia. Many perished in battles and skirmishes, and the remainder, including Morgan himself, his principal officers, and all his artillery, were finally captured by the national forces. An attempt has just been made by the insurgents to invade eastern Kentucky, which probably was begun with a view to make a diversion in favor of Morgan's escape, but the forces, after penetrating as far as Lexington, have been routed by detachment from General Burnside's army and pursued, with the capture of many prisoners and of all their artillery. ¶ This review of the campaign shows that no great progress has been made by our arms in the east. The opposing forces there have been too equally matched to allow great advantages to accrue to either party, while the necessity for covering the national capital in all contingencies has constantly restrained our generals and forbidden such bold and dangerous movements as usually conduct to brilliant military success. In the west, however, the results have been more gratifying. Fifty thousand square miles have been reclaimed from the possession of the insurgents. On referring to the annexed map it will be seen that since the breaking out of the insurrection the government has extended its former sway over and through a region of two hundred thousand square miles, an area as large as Austria or France, or the peninsula of Spain and Portugal. The insurgents lost in the various field and siege operations of the month of July, which I have described, one-third of their whole forces. ¶ Jefferson Davis, the leader of the sedition, has since proclaimed a levy of all the able-bodied men within his military lines. This, if carried into effect, will exhaust the whole material of which soldiers con be made. The insurgents estimate the total number of conscripts thus to be gained at from 70,000 to 95,000. Our armies now confront the insurgents at all points with superior numbers. A draft for three hundred thousand more is in progress to replace those whose terms of service have expired, and to fill up the wasted ranks of our veteran regiments, and the people, just so fast as the evidence of the necessity for that measure is received and digested, submit with cheerfulness to the ascertained demands. Our armies everywhere are well equipped, abundantly fed, and supplied with all the means of transportation. The soldiers of two years' service bear themselves as veterans, and show greater steadiness in every conflict. The men, accustomed to the camp, and hardened by exercise and experience, make marches which would have been impossible in the beginning of the contest. The nation is becoming familiar with arms, and easily takes on the habits of war. Large voluntary enlistments continually augment our military force. All supplies are abundantly and cheaply purchased within our lines. The country shows no sign of exhaustion of money, material, or men. A requisition for 6,200 re-mount horses was filled, and the animals despatched from Washington, all in four days. Our loan is purchased

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at par by our own citizens, at the average rate of $1,200,000 daily. Gold sells, in our market, at 123 to 128, while in the insurrectionary region it commands 1,200 per cent. premium. ¶ Every insurgent port is either blockaded, besieged, or occupied, by the national forces. The field of the projected confederacy is divided by the Mississippi. All the fortifications on its banks are in our hands, and its flood is patrolled by the federal fleet. ¶ Missouri, Kentucky, Delaware, Maryland—all slave States—support the federal government. Missouri has already in convention ordained the gradual abolition of slavery, to take effect at the expiration of seven years. Four-fifths of Tennessee, two-thirds of Virginia, the coasts and sounds of North Carolina, half of Mississippi and half of Louisiana, with all their large cities, part of Alabama and the whole sea-coast of Georgia and South Carolina, and no inconsiderable part of the coast of Florida, are held by the United States. The insurgents, with the slaves whom they yet hold in defiance of the President's proclamation, are now crowded into the central and southern portions of Virginia, North Carolina, South Carolina, Georgia, and Alabama, while the pioneer slaveholding insurgents beyond the Mississippi are cut off from the main force. On the other hand, although it is less than six months since the laws or customs of the United States would allow a man of African descent to bear arms in defence of his country, there are now in the field twenty-two thousand regularly enlisted, armed, and equipped soldiers of that class, while fifty regiments of a thousand each are in process of organization, and 62,800 persons of the same class are employed as teamsters, laborers, and camp followers. These facts show that, as the insurrection continues, the unfortunate servile population, which was at the beginning an element of its strength, is being transferred to the support of the Union. ¶ You will use the facts presented in this paper in such a way as may be most effective to convince those who seek a renewal of commercial prosperity through the restoration of peace in America, that the quickest and shortest way to gain that desirable end is to withdraw support and favor from the insurgents, and to leave the adjustment of our domestic controversies exclusively with the people of United States. ¶ I am, &c.

William H. Seward.

To Mr. **Adams.**

No. 1857.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an die Gesandten in London, Paris, St. Petersburg, Madrid und im Haag. — Die Erfolglosigkeit des von den Secessionisten in New-York angestifteten Aufruhrs betr. —

Department of State, Washington, August 31, 1863.

No. 1857. Vereinigte Staaten, 31. Aug. 1863.

Sir, — The siege of Charleston is proceeding with apparent success. The movements of General Rosecrans and General Burnside, in their operations with regard to East Tennessee, are as difficult as they are important. Our information from them is satisfactory. The interests of the Union in Texas are not

overlooked. ¶ You will have already learned that the expectations of the insurgents which were built on a riot in New York, such as often happens in all great cities, have been disappointed. The re-enforcement of the army and the increase of the navy are going on with all reasonable success. The riot proceeded upon a false assumption of interested persons that the country was wearied and exhausted by this unfortunate civil war. It is now perceived that it is as prosperous and as strong as it has been at any former period of its history. It desires peace, but not immoderately. ¶ I am, etc.

No. 1857. Vereinigte Staaten. 31. Aug. 1863.

William H. Seward.

To Messrs. **Adams, Dayton, Clay, Koerner** and **Pike.**

No. 1858.

VEREINIGTE STAATEN von **AMERIKA.** — Gesandter in London an den Staatssecretär f. d. ausw. A. — Mittheilung über die Ergebnisse einer Conferenz des Ersteren mit Earl Russell, die Neutralität Grossbritanniens betr. —

Legation of the United States, London, March 27, 1863.

No. 1858. Vereinigte Staaten, 27. März 1863.

Sir, — I am now to report the result of my conference with Lord Russell at three o'clock yesterday. ¶ I began by expressing my regret that circumstances seemed to be once more conspiring to embarrass the friendly relations between the two governments. It had been my constant effort ever since I came, so far as I could, to defeat the machinations of those ill-disposed people whose object had been from the first to sow strife. But late events led me to fear that at last they might gain their point. Of the nature of the present danger I did not know that I could give his lordship a better idea than by laying before him a copy of a letter which had been transmitted to me by one of many active friends of peace in this country as having been lately received by him from a responsible person in London. This would serve to show the nature of the means upon which these desperate rebel conspirators counted to inflame animosities between us. ¶ The object of asking the interview I then explained to be an earnest desire to obtain the active co-operation of her Majesty's government to prevent the danger growing out of these machinations. Without such action I very much feared they might succeed; for I was now charged with the duty of laying before his lordship a frank statement of the difficulties under which my government labored in consequence of the increasing irritation of the people by reason of the successive accounts of the depredations committed by the two gunboats fitted out from here. ¶ I did not give this as conveying my own opinions, but simply to put his lordship in possession of the views held at home. And unless the government and those of us who were disposed to preserve amicable relations were furnished with some evidence of action to prove the determination of her Majesty's government to exert its power to protect us from the effects of this misconduct of a portion of her own subjects, it seemed impossible to resist the force of this popular reasoning. ¶ His lordship then went over much of the same ground heretofore taken by him on the nature of

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the contest and the desire of Great Britain to remain perfectly neutral. He adverted to the action of certain people at Liverpool as of a kind which he had always disapproved, to convince me of which he referred to his letter of last year, which had, he said, excited much dissatisfaction among them. I replied by reminding his lordship of the fact, as shown in the published diplomatic correspondence, that I had endeavored to give full credit at home to that letter. But the difficulty now was that we needed something more like evidence of efforts to prevent threatened evils. ¶ His lordship said that the government was sincerely desirous to do all it could. Any attempt to go beyond the law would only end in disappointment. They had carefully consulted on the matter, had examined their powers, and were ready to exert them to the utmost. He had made some explanation of his views in the speech he had made on Monday evening. He had since received a note from Lord Palmerston expressing his approbation of every word of that speech. ¶ I said that I also had been much gratified in reading that speech. It would be regarded in America as altogether the most friendly which emanated from his lordship since the beginning of the troubles. Had the same sentiments been expressed then we should not have been where we now are. I must also add that I should be highly gratified in writing home the substance of what he had said of Lord Palmerston. ¶ What was much needed in America was not solely evidence of action to prevent these armaments. It was the moral power that might be extended by the ministry in signifying its utter disapproval of all the machinations of the conspirators against the public peace. Hitherto the impression was quite general, as well in America as in this country, that the ministry held no common sentiment, and were quite disposed to be tolerant of all the labors of these people, if not indifferent to them. Here they were absolutely sustaining the rebels in the prosecution of the war, by the advance of money, of ships, and of all the necessaries with which to carry it on as well by sea as on the land; and upon such notorious offences ministers had never yet given out any other than an uncertain sound. The effect of this must be obvious. It encouraged the operations of British instigators of the trouble on this side, who believed that they were connived at, and so believing carried on their schemes with new vigor; whilst, on the other, it confirmed the popular impression in America that the government policy was really at heart hostile, and therefore should be met in a corresponding spirit. ¶ His lordship's tone throughout this conversation was unequivocally friendly, and I thought him not unimpressed by the earnestness of my representations. He went so far at one time as to express regret at the failure to prevent the departure of the two privateers. But he evidently considered it as a misfortune rather than a fault, which should be now repaired by us through the application of our „vast resources“ to the capture of the offenders. He wondered that we had not done so. I replied that it was not for want of effort. But it should be remembered that this was a somewhat novel kind of warfare on the ocean. It consisted of depredation on the innocent and the unarmed, and running away from the strong and those prepared for defence. ¶ Having disposed of this matter, I next turned to the subject of the joint resolutions of Congress on

foreign intervention, and agreeably to your instructions, contained in the printed circular of the 9th March. I offered to read them to his lordship, or to leave a copy, as he might prefer. He said that Lord Lyons had already sent a copy of them, which he had read. His opinion on that subject was sufficiently known. He would, therefore, take a copy, which I accordingly put into his hands. Lastly, I alluded to a letter which had been sent to me from a respectable person at Liverpool, an earnest friend of peace and good will, urging me to suggest the propriety of prosecuting the parties known to have been connected with the outfit of the gunboats in Liverpool. ¶ I said that I should not be unwilling to recommend my government to initiate any suitable form of proceedings if necessary, and if with the slightest hope of success in procuring conviction. I thought it no more than proper to present the subject to his lordship's consideration. He said he would think of it, and take advice. Should it appear that anything effectual could be done he would let me know. ¶ I have by no means reported the whole of this conversation, which lasted more than an hour. The conclusion which I draw from it is, that the government is really better disposed to exertion, and feels itself better sustained for action by the popular sentiment than ever before. ¶ I have, &c.

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Charles Francis Adams.

Hon. **William H. Seward.**

No. 1859.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. A. — Die Ansichten des Brit. Parlaments in der Neutralitätsfrage betr. —

[Extracts.]

Legation of the United States, London, March 28, 1863.

Sir, — In transmitting herewith a copy of *The Morning Star* of to-day, containing a report of the debate of last evening in the House of Commons, I can only express my regret that the substance of it should fall so far short of what I had been led to expect. ¶ The result is rather to undo in the popular mind the effect of Lord Russell's speech than to confirm it. In truth, this exhibition furnishes another illustration of the horizontal manner in which our struggle is dividing opinion in Great Britain. ¶ I have, etc.

No. 1859. Vereinigte Staaten, 28. März 1863.

Charles Francis Adams.

Hon. **William H. Seward.**

Anlage. — Die Rede des Kön. Grossbrit. Premierministers, am 28. März 1863, über die Haltung Englands zu den Vereinigten-Staaten. —

Viscount Palmerston then rose and said: ¶ In regard to the much more important practical question which has been raised by my honorable friend the member for Bradford I cannot but express some regret at the tone of his remarks, and still more at the tone taken by the honorable gentleman the member of Birmingham. There

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is no use of concealing the fact—there is no use disguising it—that whenever any political party, whether in or out of office, in the United States, finds itself in difficulty, it raises a cry against England —[cheers]—as a means of creating what in American language is called political capital. That is a course which we must very deeply regret, but so long as it is simply confined to their internal affairs we can only hope that, being rather a dangerous game, it may not be carried further than they intend. [Hear.] But when a government or a large party excite the passions of one nation against another, especially if there is no just cause, it is manifest that such a course has a great tendency to endanger the friendly relations existing between the two countries. We understand the object, and we do not feel that hesitation on the subject which we should otherwise have been justified in feeling; but if that cry is raised for the purpose of driving the government of this country to take some course which may be contrary to the law of the country, or which may be contrary to the dignity of the country, in the way of altering our laws for the purpose of pleasing another country, all that I can say is, that such a course is not likely to accomplish its purpose. Still, sir, I very much regret the speech of my honorable friend the member for Bradford, and more particularly the speech of the honorable member for Birmingham, which are calculated to encourage that irritation which I think is totally unfounded on the part of the American people. I should hope that gentlemen bringing that question before the house would rather try to allay the irritation, instead of making out, as they endeavored to do, that the Americans have just cause to complain of the conduct of England and the English government. With regard to the cause of the complaint my honorable and learned friend, the solicitor general, in that admirable speech, [cheers,] which I listened to with the greatest delight, has demonstrated that the Americans have no cause to complain. He has shown that the British government have done, upon representations made to them by the American minister, everything which the law of the country enabled them to do. Although I can very easily understand that, in the United States, where, owing to the great irritation and animation produced by civil war, men's minds have been led to forget, in a great degree, the obligations of law, they may not give that credit which is due to the arguments which we used, that we cannot go beyond what the law prescribes and authorizes; yet I think this house will see at least that the statement of my honorable and learned friend shows that we have done, with regard to the foreign enlistment act, everything which the law enabled and authorized us to do. Gentlemen have argued as if seizing a vessel were equivalent to the condemnation of a vessel. It was said: "Why did you not seize the Alabama? You were told that it was known or believed that she was engaged for warlike purposes on the part of the Confederate States." Well, in the first place, you cannot seize a vessel under the foreign enlistment act unless you have obtained evidence upon oath authorizing just suspicions. We did not obtain such evidence. The American minister said: "I tell you this—I tell you that—I am sure of this—I am sure of that"; but when he was asked to produce the evidence upon oath, which was the only groundwork for proceeding, he says: "No; the information was given to the American consul, and I cannot give you the evidence upon oath; but, nevertheless, you should act upon my assertions and suspicions, which I maintain are well founded." What would happen if you seized a vessel unjustly and without good grounds? There is a process of law to come afterwards, [hear, hear,] and the government would be condemned in heavy costs and damages. Are we going to undertake an illegal course, which would lead to these consequences, simply to please the agent of a foreign government? We say that if there is any fault, the fault is on the part of those who called upon us to do an act, but would not give us the groundwork upon which that act would have been justified. I myself have great doubts whether, if we had seized the Alabama in the condition in which she was, we should not have been exposed to considerable damages, because it was stated, and generally known, that she sailed from this country unarmed, apparently unfit for war, and that her armament,

equipments, and crew were afterwards given to her in a foreign port. Therefore the probability is, that whatever suspicions there may have been, and well-founded as the result proves, of her intended destination, circumstances would not have justified a court of law in proceeding to take her from her owners and prevent her from quitting port. I can assure the house that her Majesty's government have no indisposition to enforce the conditions of the foreign enlistment act whenever just cause may occur. The honorable gentleman, the member for Birmingham, reproaches us with exhibiting a cold and unfriendly neutrality. I don't know exactly what the meaning of such terms may be. They appear to me to be a contradiction, [laughter and hear,] because if a neutrality is warm and friendly to the one party, it must be something very different towards the other, [laughter and cheers,] and ceases to be that which, in common parlance, is called neutrality between contending parties. Whether our neutrality is warm or cold, friendly or unfriendly, it is sincere and honest. [Cheers.] I can assure my honorable friend and the house, that whenever it is in our power to enforce the provisions of that act legally and according to justice, we shall not be found wanting in the performance of our duty. It is a great mistake to suppose that we can see with pleasure any transactions going on in this country which have a tendency to violate not only the letter but the spirit of the foreign enlistment act. [Hear.] It would have been much more agreeable to us if all those supplies which have been so well enumerated by the honorable member for Birkenhead, which have been furnished so abundantly to the one party and so scantily to the other, [hear,] it would have been much more agreeable to us if the whole of the United Kingdom had remained in a state of the most perfect neutrality between the two parties, and if no supplies of any kind had been furnished. But when we are so much reproached for not having acted upon suspicions, it is fair to say that, so far as suspicions go, we have been informed, it may be quite erroneous, that not only have arms gone to the northern part of the United States, but that endeavors had been made in Ireland to enlist persons to go and serve in their army and navy. [Cheers.] And unquestionably a great many cases have arisen in North America of British subjects who had been seized, and with regard to whom attempts have been made to compel them to serve against their will in the war now raging between the contending parties. ¶ Now, sir, feeling, as we must do, the greatest desire that the most friendly relations should continue to be maintained between this country and the United States, and regretting exceedingly that any circumstances of any kind should have created any irritation in the minds of the people of the northern Union, I can only say that we cannot go beyond the law. The law is one which is very difficult of execution, and this is not the first time that that has been discovered. When the contest was raging in Spain between Don Carlos and Isabella, it was my duty—the British government having taken part with the Queen of Spain—to prevent supplies of arms from reaching the Carlists from this country. I can assure the house that there were two or three ships fitting out on the Thames, which we knew perfectly well were intended to go in aid of Don Carlos, but it was impossible for us to obtain that information which would have enabled the government successfully to seize them. All I can say is, that I do hope that those gentlemen who are warm advocates of the north—I am not now speaking in favor of one or the other—that those who make themselves in this house the advocates of the north, will use that influence to which they are entitled, by the course they have taken, to prove to their friends on the other side of the Atlantic that really the charges made against the British government are not founded in reason or law, and to assure them that her Majesty's government will continue, as I contend they have done hitherto, to execute the law whenever a case shall be brought before them in regard to which they can safely act upon good and sufficient grounds. But there must be a deposition upon oath. That deposition must be made as to facts that will stand examination before a court of law; and I say that to call upon us arbitrarily and capriciously to seize vessels with regard to which no great, convincing, and proper proof can afterwards be

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established, would be urging this government to adopt a course which will cast discredit upon them, and only lead to difficulties and certain embarrassment. [Hear, hear.] Sir, I can only say, therefore, that I do trust that the people and the government of the United States will believe that we are doing our best in any case to execute the laws, but that they will not imagine that the cry raised will induce us to come down to this house to alter the law. We have had, I have had, [laughter,] experience of those cries, but I think by the murmurs of gentlemen who are sitting on these benches that they would not be disposed, even if I were so, to concur in any proposition of the kind. [Hear, hear.] ¶ Lord Fermoy thought that the noble lord's speech was in accordance with the general feeling of the country. He was glad that the noble lord had retired from the advanced position he had taken in former debates on the subject of Poland. Twice this session had he justly stigmatized the conduct of Russia. He (Lord Fermoy) considered that as Russia had deliberately violated the treaty of Vienna, Poland was released from all her obligations. He hoped that the European powers would interfere and summon a general council to confirm the independence of the struggling kingdom.

No. 1860.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. d. Verein.-St. in London. — Das Verfahren Englands in der Neutralitätsfrage betr., mit Bezug auf unter gleichen Umständen erfolgte Aussprüche der Gerichte in den Verein.-Staaten. —

Foreign Office, April 2, 1863.

No. 1860. Grossbritannien, 2. April 1863

Sir, — Her Majesty's government have not failed to consider, with the attention it deserved, the letter which you addressed to me on the 14th ultimo, in reply to my letter of the 9th ultimo, on the subject of the intercepted correspondence which you had alleged went to show a deliberate attempt to establish within the limits of the United Kingdom a system of action in direct hostility to the government of the United States. ¶ I have now the honor to observe to you that, while you withhold your acquiescence in the opinion expressed by me of that correspondence, and state that you shall transmit a copy of my note with profound regret, to your government, you nevertheless do not controvert the principal positions assumed in that note. ¶ You do not deny, first, that it is lawful for her Majesty's subjects to lend money on securities, or otherwise, to either belligerent, or, secondly, that it is also lawful to sell, to either belligerent, munitions of war. ¶ Upon this subject I beg to call to your notice that no longer ago than the 20th of last November, in answer to the remonstrance of Mexico against an alleged organized system in the United States of aiding France in the war in which she is engaged with that republic, but in which the United States are neutral, Mr. Seward replied by this, among other citations:

(Mr. Webster to Mr. Thompson.)

„As to advances, loans, or donations of money to the government of Texas, or its citizens, the Mexican government hardly needs to be informed that there is nothing unlawful in this, so long as Texas is at peace with the United States, and that these are things which no government undertakes to restrain."

You are, without doubt, perfectly aware that many decisions of tribunals in the United States fully establish that a like exposition of the law as to munitions of war and the sale of armed vessels has been always maintained in the United States when they were neutrals. ¶ You do not state that the information which you have communicated to me, as to alleged contracts for constructing war steamers, or the proposed establishment of naval officers to superintend them, would be sufficient to found a criminal prosecution in the United States; you are probably aware that it would not suffice for that purpose, and there is, therefore, no reason why you should complain of my statement that the information which you had furnished would not suffice for the like purpose in England. ¶ You are not ignorant that agents have been employed, and munitions of war have been purchased, and that it is now again asserted that her Majesty's subjects are being recruited for the purpose of aiding the United States against the so-called Confederate States, and so far it might be urged in vague and popular language by the Confederate States as well as by the United States as the other belligerent (as it was substantially urged by Mexico against the United States last year) „that there is evidence of a deliberate attempt to establish within the limits of this kingdom a system of action in direct hostility to their government;" but the question really is, has there been any act done in England both contrary to the obligations of neutrality as recognized by Great Britain and the United States, and capable of being made the subject of a criminal prosecution? I can only repeat that in the opinion of her Majesty's government no such act is specified in the papers which you have submitted to me. ¶ I, however, willingly assure you that, in view of the statements contained in the intercepted correspondence, her Majesty's government have renewed the instructions already given to the custom-house authorities of the several British ports where ships-of-war may be constructed, and by the secretary of state for the home department to various authorities with whom he is in communication, to endeavor to discover and obtain legal evidence of any violation of the foreign enlistment act, with a view to the strict enforcement of that statute whenever it can really be shown to be infringed; and her Majesty's government would be obliged to you to communicate to them, or to the local authorities at the several ports, any evidence of illegal acts which may from time to time become known to you. ¶ I have referred, generally, to the judicial decisions of the United States on this subject; but it would be as well that I should mention, specially, two of these decisions, selected out of many, both upon the general question and upon the particular case of the sale of ships-of-war by the subjects of a neutral to a belligerent State. ¶ The first decision is that of the eminent Judge Story, given, it may be well to observe, in a case in which the recognition of the Spanish American republics was directly concerned. After admitting that the capture had been made by an United States ship, built in the United States, originally owned in the United States, Judge Story proceeds to say: „The question as to the original illegal armament and outfit of the Independence may be dismissed in a few words; it is apparent that, though *equipped as a vessel-of-war*, she was sent out to Buenos Ayres on a commercial adventure, *contraband indeed*, *but*

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in no shape violating our laws or our national neutrality. If captured by a Spanish ship-of-war during the voyage, she would have been justly condemnable as good prize for being engaged in a traffic prohibited by the law of nations. But there is nothing in our laws, or in the law of nations, that forbids our citizens from sending armed vessels, as well as munitions of war, to foreign ports for sale. It is a commercial adventure which no nation is bound to prohibit, and which only exposes the persons engaged in it to the penalty of confiscation." ¶ This is a case illustrating the law and practice of the United States while neutral in the war between Spain and her colonies. ¶ The next case (historically the first) illustrates the law and practice of the United States while neutral in the war between Great Britain and France. It is so short that I beg leave to cite it verbatim and at length as given in Curtis's Reports of Decisions in the Supreme Court of the United States, volume 1, pages 234, 235, „Moodie *vs.* The ship Alfred." ¶ „It is not a violation of the neutrality laws of the United States to sell to a foreigner a vessel built in this country, though suited to be a privateer, and having some equipments calculated for war, but frequently used by merchant ships. The allegation in this case, as supported by the evidence, was that the privateer which took the British prize in question had been built in New York, with the express view of being employed as a privateer, in case the then existing controversy between Great Britain and the United States should terminate in war; that some of her equipments were calculated for war, though they were also frequently used for merchant ships; that the privateer was sent to Charleston, where she was sold to a French citizen; that she was carried by him to a French island, where she was completely armed and equipped, and furnished with a commission; that she afterwards sailed on a cruise, during which the prize was taken and sent into Charleston. Reed, for the plaintiffs in error, contended that this was an original construction or outfit of a vessel for the purpose of war; and that if it was tolerated as legal, it would be easy, by collusion, to subvert the neutrality of the United States and involve the country in a war. ¶ „The court, however, without hearing the opposite counsel, directed the decree to be affirmed." ¶ It seems clear, on the principle enunciated in these authorities, that, except on the ground of any proved violation of the foreign enlistment act, her Majesty's government cannot interfere with commercial dealings between British subjects and the so-styled Confederate States, whether the subject of these dealings be money or contraband goods, or even ships adapted for warlike purposes. ¶ I have, &c.

Russell.

Mr. Adams.

No. 1861.*)

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Die Neutralität der Brit. Regierung betr., nebst Mittheilung über die Sendung von William Evarts nach London. —

Department of State, Washington, April 13, 1863.

No. 1861. Vereinigte Staaten, 13. April 1863.

Sir, — I have laid before the President your despatch of March 27, which relates a long, free, and friendly conversation had between yourself and Earl Russell on the general subject of our relations with Great Britain; that of March 27, which gives us the two notes which have passed between his lordship and yourself touching the fitting out of certain armed vessels in Glasgow; and that of March 28, which gives us the debate held in the Commons on the inquiry of Mr. Forster concerning the hostile naval operations of British subjects against the United States. ¶ The pleasing impression made by the first two of these papers is so nearly removed by the latter as to render it difficult for this government to accept as reliable the expectations of a more favorable course on the part of her Majesty's government which you so very reasonably built upon Earl Russell's explanations. Nevertheless, the President has determined to pursue the course of prudence and moderation which you have suggested, until it shall be ascertained whether we may expect any action on the part of her Majesty's government to prevent the hostilities with which we are menaced by British subjects. ¶ The state of the case seems to be this: The United States, laboring under all the difficulties of their situation as a foreign sovereign, unable in a friendly country to put into activity the laws and proclamations of that country which are designed to prevent aggressions by British subjects upon American commerce on the high seas, appeal to her Majesty's government to enforce those laws. On the other hand, her Majesty's government avow their willingness to enforce the same laws, provided they are first furnished with evidence which would probably lead to the conviction of the offenders. ¶ The line which divides the two nations is one which it would seem might be removed by their governments, each of which is acting in good faith and with a desire that justice and only justice shall be done. It has seemed to the President that an American lawyer of learning and experience, and yet at the same time distinguished for good temper and courtesy, might be useful to the legation in its consultations with such British counsel as you may employ, and also in preparing papers or proofs. With this view William M. Evarts, esq., of New York, will proceed to London, and place himself in communication with you, instructed to institute nothing and to do nothing except what you may think it useful for him to do. Lord Lyons, who has been consulted on the subject, and who manifests a very friendly desire for the removal of the present difficulty, will probably write to Earl Russell in relation to Mr. Evarts. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

*) No. 667.

No. 1862.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Die gegen die Neutralität verstossenden Schritte der Brit. Regierung betr. —

Legation of the United States, London, April 6, 1863.

No. 1862. Vereinigte Staaten, 6. April 1863.

My Lord, — I have had the honor to receive your note of the 2d instant, in reply to mine of the 14th of last month, on the subject of the intercepted correspondence, submitted to your lordship's consideration some time since, which, as I alleged, „went to show a deliberate attempt to establish within the limits of the United Kingdom a system of action in direct hostility to the government of the United States." ¶ Your lordship is pleased to observe that I do not controvert the principal positions assumed in your note, to wit: 1st. „That it is lawful for her Majesty's subjects to lend money on security or otherwise to either belligerent. 2d. That it is lawful to sell to either belligerent munitions of war." And thereupon your lordship is pleased to call my attention to several citations from eminent authorities in the United States, judicial and otherwise, toestablish these positions, just the same as if I had controverted them. ¶ Nevertheless, I have given to all the passages presented by your lordship the same profound attention which I habitually pay to everything from the same source. I cannot, however, perceive that they have any effect in disturbing the positions which have been heretofore assumed by myself. The sale and transfer, by a neutral, of arms, of munitions of war, and even of vessels-of-war, to a belligerent country, not subject to blockade at the time, *as a purely commercial transaction*, is decided by these authorities not do be unlawful. They go not a step further, and precisely to that extent I have myself taken no exception to the doctrine. ¶ But the case is changed when a belligerent is shown to be taking measures to establish a system of operations in a neutral country, with the intent to carry on a war from its ports, much in the same way that it would do, if it could, from its own territory, when it appoints agents, residing in that country, for the purpose of borrowing money *to be applied to the fitting out of hostile armaments*, in those very ports, and when it appoints and sends out agents to superintend in those ports the constructing, equipping, and arming ships-of-war, as well as the enlisting of the subjects of the neutral country, to issue forth for the purpose of carrying on hostilities on the ocean. ¶ These are the points to which I desire to call your lordship's attention in the intercepted despatches. I affirmed that they *went to show* a system of operations to the extent thus designated. I did not affirm that they absolutely proved the fact. But I did mean to be understood as affirming them to furnish strong corroborative evidence to sustain all the other proofs which I have been in the practice of laying before your lordship for a long time past, of the abuses made of her Majesty's neutral territory, for the conduct of the war directly from her ports, without the intervention of time even for the vessels to gain the semblance of a national character. ¶ Had your lordship been pleased to continue your reading

of the decision by the United States court in the case of the Independencia and Attrarida some pages further than the passage to which you have done me the honor to draw my attention, you would have been able fully to comprehend the spirit in which the eminent judge who pronounced the decree construed the obligations of the United States as a neutral power. He condemned the outfit of these vessels precisely for the reason above assigned. ¶ Neither is that case the only or the most significant expression of the duties incumbent on the government of the United States towards nations with which it is in amity in a similar emergency. Since your lordship is pleased to accord so much weight to the decisions of the courts, I would respectfully solicit your attention to the case of the United States against John D. Quincy, (6 Peters's Reports, pp. 445—465,) as giving a full construction of the powers given to it for the protection of foreign countries by the enlistment law. So far as I may be permitted to express an opinion, it clearly embraces within its scope the objects and purposes declared in the intercepted despatches. ¶ But I must pray your lordship's pardon for thus encroaching on your valuable time with any further discussion of these points. In doing so, I am conscious of having varied from the intentions heretofore expressed of abstaining from it, unless prompted by the authority of instructions. I shall do myself the honor to transmit to my government a copy of your note, and I entertain no doubt that it will receive with satisfaction the assurance your lordship is pleased to give of a determination of her Majesty's government, „in view of the statements contained in the intercepted correspondence," to endeavor to discover and obtain legal evidence of any violation of the enlistment act, with a view to the strict enforcement of it, whenever it can really be shown to be infringed. I trust I need not add the assurance that all the efforts of myself, as well as of the various officers of my government within this kingdom, will be at the service of the local authorities at the several ports in prosecuting these investigations. ¶ I pray, &c.

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Charles Francis Adams.

To Earl Russell.

No. 1863.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Forderungen Englands, die Entlassung Brit. Unterthanen aus der Armee und Flotte der V.-St. betr. —

Legation of the United States, London, April 25, 1863.

My Lord, — I have the honor to acknowledge the reception of your note of the 20th instant, in answer to several notes of mine, making certain representations in regard to the enlistment of British subjects in warlike operations on the ocean, against the commerce of the people of the United States, with whom her Majesty is at peace. ¶ In further evidence of the truth of former allegations I now have the honor to submit to your consideration a copy of a minute or agreement, duly signed by certain parties, well known at Liverpool,

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which was given to one of the men who sailed in the vessel called first the Japan, and then the Virginia — a vessel the objects and intent of which have been already exposed by the evidence accompanying my note to your lordship of the 13th instant. ¶ Upon examining the statute of the realm, by the terms of which, in the second section, any proceeding of the sort indicated, if established by proof, is pronounced a misdemeanor, and the party guilty of it punishable by fine and imprisonment at the discretion of the court competent to try the same, I do not perceive that the enforcement of this provision is made dependent upon the exterior action of parties who have occasion to complain of the commission of these offences; nor do I understand their privilege of furnishing information of such facts (as may have become known to them) to her Majesty's government to be connected with any condition, excepting those implied obligations of courtesy which regulate the intercourse of all civilized nations. ¶ It is, therefore, not without the greatest surprise that I gather from the terms of your lordship's note an impression that my government, for the future, is to be debarred from presenting evidence of the violations of neutrality committed within this kingdom by the enlistment of her Majesty's subjects in a war on the people of the United States, until I can furnish proofs that all British subjects who may have found their own way to the United States at any time within the present century, and have voluntarily enlisted in the federal army or navy, have been discharged, and that orders have been given not to enlist or engage any such persons to serve in arms contrary to the tenor of her Majesty's proclamation. ¶ I need not point out to your lordship the fact that this is asking what is it altogether beyond the powers of the government of the United States to do by virtue of any existing law. Your lordship has heretofore, on many occasions, called my attention to the fact that her Majesty's government cannot go beyond the law in applying a remedy to any abuse, however flagrant. It certainly would not counsel another government to do that which it refuses to do itself. It is quite certain that a very large number of persons, reckoned still as subjects by the law of the realm, have yet emigrated to the United States, have renounced their allegiance to her Majesty, and have become citizens of the United States. As such they are recognized as having obtained certain new rights, and become subject to correlative obligations. One of these last is that incumbent equally on all citizens of serving their country, if called upon, in time of war. From this it is not possible for the government to relieve them. Hence, if her Majesty's government is to be understood as requiring that a condition of discharging the large number of persons embraced in this category from the military and naval service of the United States is to be fulfilled prior to the exercise by the United States of a right to make representations respecting the violations of the laws enforcing neutrality committed within this kingdom by the enlistment of her Majesty's subjects in a war against a friendly nation, I very much fear lest this act may be construed as indicative of a disposition to cut off the opportunities of remonstrance by demanding the performance of an obvious impossibility. Of course I cannot permit myself to suppose that such an intention has been entertained for a moment. Yet, on the other hand, it is not to

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be denied that, according to the terms of your lordship's note, the effect indicated must practically follow. ¶ The government of the United States acknowledges, and will, whenever called upon, perform, the obligation to enforce the laws prohibiting its citizens from entering into the military or naval service of friendly nations engaged in war with one another. But they cannot engage to refuse the service of volunteers who may be disposed to come to the United States and offer their aid in the great struggle in which they are engaged, no matter from what country they may come. The memory of such names as La Fayette, Koscinsko, and De Kalb, not to mention others remains, too much in honor among them to justify any such step. Her Majesty's government, in appearing to require it, asks more than has ever been suggested under any theory of international law, and directly the opposite of what it has been heretofore in the habit of practicing itself. ¶ The archives of this legation, for many years back, and running far beyond the period of the late war with Russia, abound in instances of applications to her Majesty's government for the discharge of citizens of the United States who have voluntarily enlisted in her Majesty's service. In some cases they have been granted as a matter of favor, but never as an acknowledgment of right. And of late years they have been uniformly refused unless coupled with the condition commonly attached to the discharge of subjects, the repayment of the advance—the temptation which drew them to enlist. I have now before me a note received from an individual alleging himself to be a citizen of the United States, but as a gunner in the British navy, driven by his poverty to enlist, praying me to interpose in his behalf and to transfer him to a post where he could serve his own country in this her time of greatest need. I have been obliged to answer his application by saying that her Majesty's government declines to act in similar cases, excepting as matters of favor, and then, in such a position as his, only on the requisition of the payment of thirty pounds. A condition like this is generally equivalent to a denial. It is not a part of my purpose to complain of this course. But such being the practice of her Majesty's government, it can scarcely be expected that the government of the United States could be called upon to adopt any other. ¶ Neither is this the only or the strongest instance of the declaration of her Majesty's government of a right to accept the services of the people of all nations in time of war. Lord Stowell, than whom no more eminent authority is ever cited as authority in British jurisprudence, has explicitly declared, in the broadest terms, that „in time of war every country admits foreigners into its general service.“ This is a measure „to which every country has resort in every war, whether prosperous or adverse.“ ¶ Her Majesty's government proceeded to act upon this principle in the very last war in which Great Britain was engaged. And her secretary of state for foreign affairs at the time, Lord Clarendon, appears to have enunciated it, in the very widest terms, in addressing the government of the United States. In defending the action of persons who actually went far beyond the line marked out, his lordship affirmed that unless there was an express law forbidding the subjects of a country to leave the territory, it was perfectly legitimate for another country to invite them to leave it, for the purpose of entering into

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its service. I quote the language of his despatch to Mr. Crampton of the 16th November, 1855: ¶ „It is of course competent to any nation to enact a municipal law, such as actually exists in many countries, forbidding its subjects to leave its territory; but in such cases '*civitas carcer est*;' and it may be the duty of other countries to abstain from actively assisting the captives to escape from the national prison in order to serve another master. But the government of the United States has enacted no such law. It justly boasts of its complete freedom in this respect—'*civitas non carcer est.*' All residents therein, whether foreigners or citizens, are perfectly free to leave its territory, without the permission of the government, at their own absolute discretion, and *to enter the service of any other state when once within its frontier.* To invite them or persuade them to do what is thus lawful, can constitute no violation of the territorial rights which the sovereign power has never claimed or exercised.“ ¶ Neither is this all, nor even the most decisive testimony to the policy heretofore pursued by Great Britain in regard to this matter. I have reason to believe that there is a statute of the realm, of ancient date, which expressly authorizes and directs the enlistment of foreigners, of any and every nation, into the army or navy, in time of war, and which tenders to them as an inducement the boon of naturalization as British subjects. That act, though passed to meet an immediate emergency, appears to give powers which revive its vigor on the breaking out of any future war. I have no reason to suppose that it is not yet in force to this day. I have the honor to transmit a copy of that statute. I cannot help believing that it places beyond the possibility of a doubt the question of principle which lies at the bottom of this discussion, so far as the uniform action of this kingdom contributes to establish it among nations. ¶ Under these circumstances, I cannot but hope that her Majesty's government will so far reconsider the interdiction they appear to have laid upon the United States, in the present case, as not to demand, as a prior condition, the performance of a common act of remonstrance, not simply a series of measures never required before, but one at war with the whole previous policy of Great Britain in its own case, contrary to the general practice of nations, as well as obviously impossible to perform. ¶ I pray, &c.

Charles Francis Adams.

To Earl **Russell.**

No. 1864.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Verein.-St. in London. — Antwort auf des Letzteren Note vom 25. April 1863, den Eintritt Brit. Unterthanen in den Militärdienst der V.-St. betr. —

Foreign Office, May 1, 1863.

No. 1864. Grossbritannien, 1. Mai 1863.

Sir, — Your letter of the 25th of April, in reply to mine of the 20th of that month, did not reach me until the morning of the 28th. I mention this to explain to you why it was not included in the collection of papers presented to Parliament on the 27th, of which my letter formed a part. ¶ I think it ne-

cessary, in consequence of the tenor of your letter, to point out to you that you have entirely misapprehended the purport of my letter of the 20th of April. My object in that letter was not to discuss the question of the practice of nations to admit into their naval or military service the subjects or citizens of other states, but merely to point out that the government of the United States had no right to complain, as of an unfriendly act on the part of this country, that British subjects took service with the so-called Confederate States, so long as the government of the United States allowed and encouraged other British subjects to enter into their own military service. ¶ The government of the United States must either proceed on the principle of admitting all British subjects to voluntary service in its ships and military bodies, and then it has no reason to complain that the confederates do the same; or it must appeal to the foreign enlistment act, and, in that case, it ought not to encourage in its own practice that which it denounces in the case of the confederates. ¶ The government of the United States cannot ask the British government to act partially and unfairly. If thousands of British subjects are to be found fighting in the ranks of the federals, on the invitation of the United States authorities, it is no breach of neutrality that some hundreds should be found in the ships and armies of the confederates upon a similar invitation on their part. ¶ I have, &c.

No. 1864. Grossbritannien, 1. Mai 1863.

Russell.

To Mr. Adams.

No. 1865.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Erwiderung auf des Letzteren Note vom 1. Mai 1863. —

Legation of the United States, London, May 2, 1863.

My Lord, — I am very happy to understand, by the terms of your lordship's note of the 1st instant, what I did not doubt must have been the fact, that no intention was entertained on the part of her Majesty's government to put obstacles in the way of remonstrances on the part of my government against the enlistment, by parties within this kingdom, of her Majesty's subjects, for the purpose and with the intent to carry on war against a nation with which she is at peace. It has seemed to me that such proceedings have been and are carried on, in violation of the neutrality declared in the present contest, and to that extent become just subjects of complaint on my part. I am not aware that I have ever carried my representations beyond that point. ¶ I pray, &c.

No. 1865. Vereinigte Staaten, 2. Mai 1863.

Charles Francis Adams.

To Earl Russell.

No. 1866.*)

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Erklärung der starken Einwanderung, besonders von Irland, nach den Vereinigten-Staaten. —

Department of State, Washington, May 9, 1863.

No. 1866. Vereinigte Staaten, 9. Mai 1863.

Sir, — We have, indeed, observed here a remarkable increase of immigration, especially of immigration from Ireland. But you are entirely correct as well as truthful in the declarations you have made— that not one person has been enlisted, directly or indirectly, in Ireland, or in any foreign country, by any agent or under any authority or with any knowledge of this government. You have assigned some of the causes of this immigration. The enlistment and conscription of men into the loyal and devoted armies of the country, the inducements to military ambition, with the increase of military spirit in the country, which is continually rendering the soldier's career more attractive; the growth of national spirit, with an increase of confidence in the cause of the Union, and, of course, an increase of patriotic devotion to it, all the while urging citizens to abandon the pursuits of civil life; the greater publicity of the contest in foreign countries, and the increased favor felt toward it there as its true character comes to be understood; a marked advance in the prices of labor and skill, consequent upon a condition of industrial activity in agriculture and in the mechanical and manufacturing departments which has hitherto been unknown; the advantages offered to the poor of every land by the homestead law—all these are probably beginning to be felt in Europe. There is yet another material cause; gold and silver have to some extent become demonetized here, and been replaced by a national currency which is satisfactory to the masses of the people. The rewards of labor paid in this currency are increased, without being balanced as yet by a corresponding increase of hiring of labor abroad, while the cost of subsistence here is not equally enhanced. You are authorized to communicate to Earl Russell so much of the information furnished you by this despatch as you may think it will be useful that her Majesty's government should have. And in every case you will counteract and deny, in a courteous manner, but with decision and earnestness, all allegations to the effect that we are enlisting soldiers in Ireland, Great Britain, or in any other foreign country. ¶ I trust that the expositions of opinion abroad would justify us in hoping that this new result in Europe of our deplorable strife is likely to induce there the reflection that this civil war has no tenacity of life, except what is derived from the support and sympathy extended to it by prejudiced or misguided parties in foreign countries, whose prosperity and welfare this government not only has no desire to disturb, but really seeks to promote through as speedy return to domestic peace as can be made with safety to the national existence. ¶ The United States, by fostering slavery here, with the tacit concurrence of foreign states for fifty years, have created a

*) No. 674.

system of international industry beneficial to European countries. It is hardly to be expected that when that policy is all at once arrested and abandoned here, at the cost of a fearful civil war, all the painful results of so sudden and violent a change will be confined to this country, and that the European states will not be obliged to conform their own social industry in some respects to the altered condition of affairs. ¶ I am, &c.

No. 1866 Vereinigte Staaten, 9. Mai 1863.

William H. Seward.

To Mr. Adams.

No. 1867.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Ges. in Paris. — Die öffentliche Stimmung in den V.-St. gegen Frankreich. —

Department of State, Washington, December 29, 1862.

No. 1867. Vereinigte Staaten, 29. Dec. 1862.

Sir, — The Europa's mail has only just now come in, a few hours in advance of the time assigned for the departure of the outgoing despatches, and it brings no communication from your legation. ¶ The circumstances calculated to excite distrust of the friendly feeling of France towards the United States, to which you have heretofore directed my notice, are now fixing public attention in this country as well as in Europe. Some European observers who are unfriendly to us, or, to speak more accurately, who are jealous of a good understanding between France and the United States, are stimulating popular suspicions here, which, if they are without any just foundation, as the President believes, must be very deeply regretted in both countries. The form which these suggestions take is, that France has design to make of the war against Mexico only an introduction to aggressions against the United States in the Gulf of Mexico or on its coasts. The interpretation which is popularly given to the Emperor's late overtures to Great Britain and Russia for mediation in our affairs favors this alarm, and is consequently causing it to receive a very wide acceptance. ¶ Satisfied that France, equally with the United States, desires that the mutual and almost fraternal sympathies that so long have prevailed in the two countries shall remain undisturbed, it becomes a grave question whether it is not expedient that Mr. Drouyn de l'Huys shall do or say something to correct the impressions to which I have adverted. ¶ When the French government looks to the land and naval re-enforcements which the President has just sent to New Orleans and the Mississippi, and to the now rapid departure of our iron-clad vessels to their southern destination, it must perceive that in no case do we expect to surrender that river or any part of the Gulf coast to insurgents or to any foreign power. The same inference will be justly drawn from the important change of the war policy in regard to slavery, which will be completely announced in the President's forthcoming proclamation of the first of January next. ¶ But while all these points are so obvious as to need no elucidation, there are yet some others upon which, although they are matters of much delicacy,

No. 1867. Vereinigte Staaten, 29. Dec. 1862.

I could not, consistently with candor and frankness, forbear to speak under the circumstances now existing. ¶ It is very generally understood that there is some peculiar sympathetic relationship between Louisiana and France, which has an important political significance in regard to the relations of the two countries. Nothing could be wider from the truth. New Orleans, in its early history, as a capital of the vast but wild French province of Louisiana, was French; but so was St. Louis, then as now an important trading post, situated a thousand miles above New Orleans, on the Mississippi river. With the annexation of Louisiana to the United States, if not before, French immigration stopped, and American immigration set in there. New Orleans is at this day American in the same fixed sense that New York, Boston, and Cincinnati are. There is a small French commercial interest in New Orleans, but so there is in New York. It is as completely exotic as if it had been lately engrafted on an American stock, instead of having an American graft set upon itself, which has absorbed the chief life of the community. The French relationship existing between New Orleans and France is now merely the relationship of a social class, perhaps I might say a creation of fashion. As proof of this you may refer to the fact that the French representation of New Orleans in both houses of Congress has dwindled away year after year until a Frenchman is rarely found in it. There is another proof: Even the insurgents, when they choose in New Orleans pretended representatives to go to France, take not Frenchmen, but natives, or persons derived from the prevailing stocks of the other States. There is now no more a hook for a French intervention to grapple to in Louisiana than there is in any other State of this Union. This fact is even more palpable now than it has been heretofore. The war makes social and political changes here, as it necessarily must. They are none the less real because they escape for a time the attention of a class of observers who fasten themselves upon events which merely strike the imagination. If you could return home you would be surprised to find Baltimore and Washington so changed that you would scarcely perceive a difference in the tone of society there from what prevails in Chicago and Trenton. ¶ There is a second consideration which the French government ought to understand. The attachment of the people of the United States to France differs from the sentiment they bear towards every other country. It is general, practically universal. But it is an attachment that has its roots not in natural affinity, nor yet in international motives. It is the fruit of two purely moral sentiments—justice and gratitude. We all have been educated to pity the fate of Louis XVI, who was our friend—to admire Lafayette, who was a chivalrous knight-errant in our revolutionary cause—to admire Napoleon the First, who saved and restored France by his genius and his valor. We honor and love all France, because she has constantly cherished with pride and pleasure the memories of the period when we were allies, because she has been willing that we should endure, and hopeful of our social, political and civil institutions. The affection of the American people is attended, not by any national sense of weakness, or dependence, or fear, or of interest, but by a luxuriant Americanism, or love of independence. It is more honorable to France for being so; for there

is for nations no esteem that is worthy of pride, or that can be relied upon as a bond of friendship, but that which is the outgrowth of national magnanimity. ¶ The fact that the national attachment of this country to France is so pure and so elevated, constitutes just the reason why it could be more easily supplanted by national insult or injustice than our attachment to any other foreign state could be. It is a chivalrous sentiment, and it must be preserved by chivalrous conduct and bearing on both sides. I deduce from the two positions which I have presented a conclusion which has the most solemn interest for both parties, namely, that any attempt at dictation —much more any aggression committed by the government of France against the United States—would more certainly and effectively rouse the American people to an attitude of determined resistance than a similar affront or injury committed by any other power. There is reason to believe that interested sympathizers with the insurrection in this country have reported to the French government that it would find a party here disposed to accept its mediation or intervention. I understand that they reckon upon a supposed sympathy between our democratic citizens and the French government. It may as well be understood as soon as possible that we have no democrats who do not cherish the independence of our country as the first element of democratic faith, while, on the other hand, it is partiality for France that makes us willingly shut our eyes to the fact that that great nation is only advancing towards, instead of having reached, the democratic condition which attracts us in some other countries. ¶ If we understand Mr. Drouyn de l'Huys, he is capable of believing that the sentiments I have expressed may be maintained and avowed with the most perfect respect and the most cordial feeling towards France, because they are sentiments which, in an American, are as virtuous as devotion to the intellectual and moral ideals of France are in a Frenchman. ¶ Since I began this communication I have received, by a delayed mail, your despatch of the 12th of December, No. 240, in which you have set down explanations made by Mr. Drouyn de l'Huys, which are just such as it was my object on this occasion to instruct you to solicit. You know how confidingly we accept assurances of this character from France, and, therefore, I hardly need say that they are entirely satisfactory. ¶ I am, &c.

No. 1867. Vereinigte Staaten, 29. Dec. 1862.

William H. Seward.

To Mr. Dayton.

No. 1868.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in Paris. — Die französ. Operationen in Mexico betr. —

[Extracts.]

Department of State, Washington, May 8, 1863.

Sir, — Your despatch of the 24th of April has been received. It communicates the impressions which have been made upon the French government by a paper under the signature of Mr. Adams, of the date of the 9th of

No. 1868. Vereinigte Staaten, 8. Mai 1863.

No. 1868. Vereinigte Staaten, 8. Mai 1863.

April last, which has appeared in the journals of London. ¶ Candor obliges me to commence my observations upon the subject with an acknowledgment of the very generous manner in which Mr. Drouyn de l'Huys has opened the way to a dispassionate and friendly consideration of the complaint which he has preferred. He has not only reassured you of the friendly spirit of the Emperor towards the United States, but he has also, with marked decision and energy, reaffirmed to you that France has no purpose in Mexico beyond asserting just claims against her, obtaining payment of the debt due, with the expenses of the invasion, and vindicating by victory the honor of the French flag, and that France does not mean to colonize in Mexico, or to obtain Sonora or any other section permanently, and that all allegations propagated through the newspapers conflicting with these assurances are untrue. ¶ Your reply to these remarks of Mr. Drouyn de l'Huys, namely, that in all my correspondence with you, whether public, or private, I have averred that this government has no purpose to interfere in any way with the war between France and Mexico, was as truthful as it was considerate and proper. The United States have not disclaimed, and can never under existing circumstances disclaim, the interest they feel in the safety, welfare and prosperity of Mexico, any more than they can relinquish or disown their sentiments of friendship and good will towards France, which began with their national existence, and have been cherished with growing earnestness ever since. When the two nations towards which they are thus inclined are found engaged in such a war as Mr. Drouyn de l'Huys has described, the United States can only deplore the painful occurrence, and express in every way and everywhere their anxious desire that the conflict may be brought to a speedy close by a settlement consistent with the stability, prosperity and welfare of the parties concerned. The United States have always acted upon the same principle of forbearance and neutrality in regard to wars between powers with which our own country has maintained friendly relations, and they believe that this policy could not in this, more than in other cases, be departed from with advantage to themselves or to the interests of peace throughout the world. ¶ The French government has justly assumed that the first knowledge which this government had of the paper of which Mr. Drouyn de l'Huys complains was derived from its publication in London. It is notorious that the insurgents of the United States derive their munitions of war and other supplies chiefly through a contraband trade of merchants and others residing or sojourning in Great Britain, carried on in vessels which pretend not a direct destination to the ports of our own country which are blockaded or held in military occupation by the government forces, but to neutral ports of Great Britain, Spain, and Mexico. Matamoras is chief among these neutral ports, and being situated on the right bank of the Rio Grande, which is our national boundary, contraband freights of vessels ascending to or approaching Matamoras through that river are with much facility transferred to the insurgents of the United States, for whose use they are designed. The blockade has been until this moment our chief protection against this danger, although we are now obtaining a new security against it by recovering the exclusive navigation of the Mississippi river, which divides the country west of that river from the principal field of war.

No. 1868. Vereinigte Staaten, 8. Mai 1863.

¶ We understand that two persons named Zirman and Howell appeared in London, and presented themselves to Mr. Adams, Zirman claiming American citizenship by naturalization, and Howard claiming it by birth. We do not know that they were, or that they avowed themselves to be agents of the Mexican government, as Mr. Drouyn de l'Huys seems to have supposed. Zirman is now recognized here as an adventurer destitute of all pretensions to morality or character. We know nothing of the other's antecedents. They represented to Mr. Adams that they were freighting a British ship with British merchandise, not for the insurgents, but for the Mexicans, and that they found it difficult if not impossible to effect an insurance in London, because a general suspicion attending the Matamoras trade exposed all vessels engaged in it to seizure by the cruisers who are maintaining our blockade. They therefore asked of Mr. Adams a private note which would show that they are loyal Americans, and that their venture was not contraband as against the United States, and which being confidentially shown to the underwriters, might remove the aforementioned difficulty of insurance. Mr. Adams, acting at once upon the suggestion without waiting for further information or prolonged reflection, wrote, signed, and put into their hands the paper of which Mr. Drouyn de l'Huys complains, with no expectation that it would in any case become public. ¶ The transaction being viewed in the light cast upon it by these circumstances, seems to me to lose something of the gravity with which it might otherwise be invested. It must certainly be allowed to be an act not of deliberation, but of inadvertence. The paper shows on its face that it had for its chief, if not its only object, to remove an embarrassment which two of his supposed countrymen had encountered in a mercantile transaction in the distant country to which Mr. Adams was accredited, which embarrassment resulted in part from proceedings in that country, and in part from the action of our own government. It seems at least possible that the bearing of the transaction upon the war between France and Mexico did not at all occur to Mr. Adams, pre-occupied as he was with its relations simply to Great Britain and the United States, for he confines himself in the paper to those relations. ¶ The French government, however, has adopted a different conclusion. In announcing it to you Mr. Drouyn de l'Huys assumes that the cargo of Zirman and Howell was composed, or was at least understood by Mr. Adams to consist, of military stores and munitions of war. I am not able, with the light now enjoyed, to affirm or to deny this fact. Mr. Drouyn de l'Huys derives further evidence of a purpose, or at least of sentiments, on the part of Mr. Adams hostile to France, from certain expressions in the paper, namely, these: „It gives me pleasure to *distinguish* one [meaning one enterprise] which has a different and a *creditable* purpose. I therefore *very cheerfully* give them [Howell and Zirman] this certificate at their request.“ The expressions are grounded upon the statement which Mr. Adams makes, that these persons have presented him with evidence which is perfectly satisfactory to him that they are really bound to Matamoras with a cargo intended for the Mexicans. While I deem it possible that these expressions were conceived and used without any consciousness on the part of Mr. Adams that they would be taken as alluding to the war existing between France and

No. 1868. Vereinigte Staaten, 8. Mai 1863.

Mexico, it must be admitted, on the other hand, that to insist upon this point would be to stand upon a question of verbal criticism. The United States have mo motive for assuming such a position. Striving to conduct their affairs frankly and cordially with all parties, and especially with France, it is enough for them that the construction put upon the expressions of Mr. Adams by Mr. Drouyn de l'Huys is by no means a violent or an unnatural one, and therefore the French government is entitled to the explanation it has asked. You will consequently say to Mr. Drouyn de l'Huys, that having taken the President's instructions upon the subject, I am of opinion that the giving of the paper complained of to Zirman and Howell was in effect an unfriendly act towards France, which was not in harmony with the sentiments and policy of this government, and which it therefore views with disfavor and with regret, while it regards the proceeding on the part of Mr. Adams as having been one of inadvertence, and not of design or motive injurious to France. ¶ I am, &c.

William H. Seward.

To Mr. **Dayton.**

No. 1869.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in Paris. — Die Beziehungen der Vereinigten Staaten zu der neuerrichteten Monarchie Mexico. —

Department of State, Washington, September 21, 1863.

No. 1869. Vereinigte Staaten, 21. Sept. 1863.

Sir, — The French forces are understood to hold in subjection to the new provisional government established in Mexico three of the States, while all the other constituent members of the public of Mexico still remain under its authority. There are already indications of designs, in those States, to seek aid in the United States, with the consent of this government, if attainable, and without it if it shall be refused; and for this purpose inducements are held out, well calculated to excite sympathies in a border population. The United States government has hitherto practiced strict neutrality between the French and Mexico, and all the more cheerfully, because it has relied on the assurances given by the French government that it did not intend permanent occupation of that country or any violence to the sovereignty of its people. The proceedings of the French in Mexico are regarded by many in that country, and in this, as at variance with those assurances. Owing to this circumstance, it becomes very difficult for this government to enforce a rigid observance of its neutrality laws. The President thinks it desirable that you should seek an opportunity to mention these facts to Mr. Drouyn de l'Huys, and to suggest to him that the interests of the United States, and, as it seems to us, the interests of France herself, require that a solution of the present complications in Mexico be made, as early as may be convenient, upon the basis of the unity and independence of Mexico. I cannot be misinterpreting the sentiments of the United States in saying that they do not desire an annexation of Mexico, or any part of it; nor do they

desire any special interest, control, or influence there, but they are deeply interested in the re-establishment of unity, peace, and order in the neighbouring republic, and exceedingly desirous that there may not arise out of the war in Mexico any cause of alienation between them and France. Insomuch as these sentiments are by no means ungenerous, the President unhesitatingly believes that they are the sentiments of the Emperor himself in regard to Mexico. ¶ I am, &c.

No. 1869. Vereinigte Staaten, 21 Sept. 1863.

William H. Seward.

To Mr. **Dayton.**

No. 1870.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär f. d. ausw. Ang. an den Ges. in Paris. — Ablehnung officieller Beziehungen zur Monarchie Mexico betr. —

Department of State, Washington, September 22, 1863.

Sir, — I enclose, for your information, a translation of a note of the 20th of July last, which has been addressed to me by Mr. J. M. Arroyo, who calls himself under secretary of state and foreign affairs of the Mexican empire, setting forth recent proceedings, with a view to the organization of the new government at Mexico; also a copy of a memorandum which has been left with me by a person calling himself General Cortes, alleged to have been formerly governor of the Mexican State of Sonora. No reply has been, or probably will be, made to either of these papers. ¶ I am, &c.

No. 1870. Vereinigte Staaten, 22. Sept. 1863.

William H. Seward.

To Mr. **Dayton.**

Anlage. — Mr. Arroyo to Mr. Seward.

[Translation.]

Palace of the Regency of the Empire of Mexico, July 20, 1863.

The undersigned, under secretary of state and of foreign affairs of the Mexican empire, has the honor to address the present communication to his excellency the Secretary of State and of Foreign Affairs of the United States of America, to the end that he may be pleased to place within the knowledge of his government the recent important events which have finally resulted in the organization of an appropriate, strong, and durable government, with a view that the nation might be constituted. ¶ This capital having been occupied on the 10th ultimo by the allied Franco-Mexican army, the first care of the general-in-chief was to issue a decree convening a superior gubernative junto of thirty-five members, composed of the most distinguished notabilities; and, moreover, another of two hundred and fifteen notables, in order that, united to the former, they might form an assembly of two hundred and fifty persons selected from all classes of society, and from all the departments, which, in conformity to public law and to the traditional usages of the country, should express the wish of the nation as to the form of government that would best suit it. ¶ The gubernative junto having met, decreed the establishment of a provisional executive power composed of three members, appointing the most excellent the generals of division, Don Juan N. Almonte and Don Mariano Salas, and the most illustrious the

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archbishop of Mexico, Don Pelagio Antonio de Labastida, at present absent in Europe, and to act as his substitute the most illustrious Don Juan B. Ormaechea, bishop elect of Tulancingo, who, in such character, immediately took up the reins of government. ¶ The assembly of the notables having convened in conformity to the decree of the thirteenth of June last, was engaged in causing to be made the important declaration in regard to the form of government, with a view to its permanent stability and the future happiness of the nation. The final result of their labors has been the solemn decree, a copy of which the undersigned has the satisfaction to enclose to his excellency, in which appears the following declaration: ¶ 1st. The Mexican nation adopts, as its form of government, a limited hereditary monarchy, with a Catholic prince. ¶ 2d. The sovereign shall take the title of Emperor of Mexico. ¶ 3d. The imperial crown of Mexico is offered to his imperial and royal highness the Prince Ferdinand Maximilian, Archduke of Austria, for himself and his descendants. ¶ 4th. If, under circumstances which cannot be foreseen, the Archduke of Austria, Ferdinand Maximilian, should not take possession of the throne which is offered to him, the Mexican nation relies on the good will of his Majesty Napoleon III, Emperor of the French, to indicate for it another Catholic prince. ¶ This solemn and explicit declaration was received by all classes of society with gratification, and even with enthusiasm, manifested in such a way that the undersigned does not fear to anticipate its complete realization; and so much the more so, since he receives every day numerous manifestations of accession, notice of which his excellency will see in the official journal of the empire, which is annexed. ¶ Consequently the undersigned relies on the moral co-operation of the governments which are friendly to Mexico, among which he has the satisfaction of enumerating that of the United States of America, which has given so many proofs of its interest in the happiness of Mexico. ¶ The undersigned avails himself of this opportunity to offer to his excellency the Secretary of State of the United States of America the assurances of his distinguished consideration

J. M. Arroyo.

To His Excellency the **Secretary of State and Foreign Affairs** *of the United States of America.*

No. 1871.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in Paris. — Beleuchtung der von Frankreich in Betreff Mexico's zu den Verein.-St. eingenommenen Stellung. —

[Extracts.]

Department of State, Washington, September 26, 1863.

No. 1871. Vereinigte Staaten, 26 Sept. 1863.

Sir, — Your confidential despatch of September 7, has been received and carefully considered. ¶ It is well understood that through a long period, closing in 1860, the manifest strength of this nation was a sufficient protection for itself and for Mexico, against all foreign states. That power was broken down and shattered in 1861 by faction. The first fruit of our civil war was a new, and in effect, though not intentionally so, an unfriendly attitude assumed by Great Britain, France, and Spain, all virtually, and the two first-named powers avowedly, moving in concert. While I cannot confess to a fear on the part of this government that any one or all of the maritime powers combining with the insurgents could overthrow it, yet it would have been manifestly

No. 1871 Vereinigte Staaten, 26. Sept. 1863.

presumptuous, at any time since this distraction seized the American people, to have provoked such an intervention, or to have spared any allowable means of preventing it. The unceasing efforts of this department in that direction have resulted from this ever-present consideration. If in its communications the majestic efforts of the government to subdue the insurrection, and to remove the temptation which it offered to foreign powers, have not figured so largely as to impress my correspondents with the conviction that the President relies always mainly on the national power, and not on the forbearance of those who it is apprehended may become its enemies, it is because the duty of drawing forth and directing the armed power of the nation has rested upon distinct departments, while to this one belonged the especial duty of holding watch against foreign insult, intrusion, and intervention. With these general remarks I proceed to explain the President's views in regard to the first of the two questions mentioned, namely, the attitude of France in regard to the civil war in the United States. ¶ We know from many sources, and even from the Emperor's direct statement, that, on the breaking out of the insurrection, he adopted the current opinion of European statesmen that the efforts of this government to maintain and preserve the Union would be unsuccessful. To this prejudgment we attribute his agreement with Great Britain to act in concert with her upon the questions which might arise out of the insurrection; his concession of a belligerent character to the insurgents; his repeated suggestions of accommodation by this government with the insurgents; and his conferences on the subject of a recognition. It would be disingenuous to withhold an expression of the national conviction that these proceedings of the Emperor have been very injurious to the United States, by encouraging and thus prolonging the insurrection. On the other hand, no statesman of this country is able to conceive of a reasonable motive, on the part of either France or the Emperor, to do or to wish injury to the United States. Every statesman of the United States cherishes a lively interest in the welfare and greatness of France, and is content that she shall enjoy peacefully and in unbounded prosperity the administration of the Emperor she has chosen. We have not an acre of territory or a port which we think France can wisely covet, nor has she any possession that we could accept if she would resign it into our hands. Nevertheless, when recurring to what the Emperor has already done we cannot, at any time, feel assured that, under mistaken impressions of our exposure, he might not commit himself still further in the way of encouragement and aid to the insurgents. We know their intrigues in Paris are not to be lightly regarded. While the Emperor has held an unfavorable opinion of our national strength and unity, we, on the contrary, have as constantly indulged entire confidence in both. Not merely the course of events, but that of time, also, runs against the insurgents and reinvigorates the national strength and power. We desire, therefore, that he may have the means of understanding the actual condition of affairs in our country. We wish to avoid anything calculated to irritate France, or to wound the just pride and proper sensibilities of that spirited nation, and thus to free our claim to her forbearance, in our present political emergency, from any cloud of passion or prejudice. Pursuing this

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course, the President hopes that the prejudgment of the Emperor against the stability of the Union may the sooner give way to convictions which will modify his course, and bring him back again to the traditional friendship which he found existing between this country and his own, when, in obedience to her voice, he assumed the reins of empire. These desires and purposes do not imply either a fear of French hostility, or any neglect of a prudent posture of national self-reliance. ¶ The subject upon which I propose to remark, in the second place, is the relation of France towards Mexico. The United States hold, in regard to Mexico, the same principles that they hold in regard to all other nations. They have neither a right nor a disposition to intervene by force in the internal affairs of Mexico, whether to establish and maintain a republic or even a domestic government there, or to overthrow an imperial or a foreign one, if Mexico chooses to establish or accept it. The United States have neither the right nor the disposition to intervene by force on either side in the lamentable war which is going on between France and Mexico. On the contrary, they practice in regard to Mexico, in every phase of that war, the non-intervention which they require all foreign powers to observe in regard to the United States. But, notwithstanding this self-restraint, this government knows full well that the inherent normal opinion of Mexico favors a government there republican in form and domestic in its organization, in preference to any monarchical institutions to be imposed from abroad. This government knows, also, that this normal opinion of the people of Mexico resulted largely from the influence of popular opinion in this country, and is continually invigorated by it. The President believes, moreover, that this popular opinion of the United States is just in itself, and eminently essential to the progress of civilization on the American continent, which civilization, it believes, can and will, if left free from European resistance, work harmoniously together with advancing refinement on the other continents. This government believes that foreign resistance, or attempts to control American civilization, must and will fail before the ceaseless and ever-increasing activity of material, moral, and political forces, which peculiarly belong to the American continent. Nor do the United States deny that, in their opinion, their own safety and the cheerful destiny to which they aspire are intimately dependent on the continuance of free republican institutions throughout America. They have submitted these opinions to the Emperor of France, on proper occasions, as worthy of his serious consideration, in determining how he would conduct and close what might prove a successful war in Mexico. Nor is it necessary to practice reserve upon the point, that if France should, upon due consideration, determine to adopt a policy in Mexico adverse to the American opinions and sentiments which I have described, that policy would probably scatter seeds which would be fruitful of jealousies, which might ultimately ripen into collision between France and the United States and other American republics. An illustration of this danger has occurred already. Political rumor, which is always mischievous, one day ascribes to France a purpose to seize the Rio Grande, and wrest Texas from the United States; another day rumor advises us to look carefully to our safety on the Mississippi; another day we are warned of coali-

tions to be formed, under French patronage, between the regency established in Mexico and the insurgent cabal at Richmond. The President apprehends none of these things. He does not allow himself to be disturbed by supicions so unjust to France and so unjustifiable in themselves; but he knows, also, that such suspicions will be entertained more or less extensively by this country, and magnified in other countries equally unfriendly to France and to America; and he knows, also, that it is out of such suspicions that the fatal web of national animosity is most frequently woven. He believes that the Emperor of France must experience desires as earnest as our own for the preservation of that friendship between the two nations which is so full of guarantees of their common prosperity and safety. Thinking this, the President would be wanting in fidelity to France, as well as to our own country, if he did not converse with the Emperor with entire sincerity and friendship upon the attitude which France is to assume in regard to Mexico. The statements made to you by Mr. Drouyn de l'Huys, concerning the Emperor's intentions, are entirely satisfactory, if we are permitted to assume them as having been authorized to be made by the Emperor in view of the present condition of affairs in Mexico. It is true, as I have before remarked, that the Emperor's purposes may hereafter change with changing circumstances. We, ourselves, however, are not unobservant of the progress of events at home and abroad; and in no case are we likely to neglect such provision for our own safety, as every sovereign state must always be prepared to fall back upon when nations with which they have lived in friendship cease to respect their moral and treaty obligations. Your own discretion will be your guide as to how far and in what way the public interests will be promoted by submitting these views to the consideration of Mr. Drouyn de l'Huys. ¶ I am, &c.

No. 1871. Vereinigte Staaten, 26. Sept. 1863.

William H. Seward.

To Mr. Dayton.

No. 1872.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in Paris an den Staatssecretär f. d. ausw. A. — Bericht einer Unterredung mit dem Kais. Französ. Min. d. Ausw., die beiderseitige Stellung zu Mexico betr. —

[Extracts.]

Paris, October 9, 1863.

Sir, — In the conference with Mr. Drouyn de l'Huys had yesterday, I communicated the general views expressed by you in despatches Nos. 395 and 400. ¶ I brought out your views, however, in the course of a general conversation about Mexican affairs. I asked of Mr. Drouyn de l'Huys what character of test was to be adopted, with a view to learn the wishes of that country (Mexico) as to its form of government. He said that the vote of the entire country, and of all its departments, whether the French were or were not in their possession, would be taken, and if upon its registries it should appear that a large

No. 1872. Vereinigte Staaten, 9. Oct. 1863.

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majority of the whole population (Spanish and Indian) were favorable to a monarchical form of government, he supposed that would be sufficient. He thought there would be no difficulty in applying this test, and showing a large numerical majority in favor of the Archduke, and that form of government. ¶ Mr. Drouyn de l'Huys went on to say, that the dangers of the government of the Archduke would come principally from the United States, and the sooner we showed ourselves satisfied, and manifested a willingness to enter into peaceful relations with that government, the sooner would France be ready to leave Mexico and the new government to take care of itself, which France would, in any event, do as soon as it with propriety could; but that it would not lead or tempt the Archduke into difficulty, and then desert him before his government was settled. He added, that France could not do that. He said, that the early acknowledgment of that government by the United States would tend to shorten, or perhaps, he said, to end all the troublesome complications of France in that country; that they would thereupon quit Mexico. ¶ I told him that, without having any authority from my government to say so, I should scarcely suppose that France, under the circumstances, would expect the United States to make haste to acknowledge a new monarchy in Mexico, but I would report his views to the government at home; not suggesting, however, that any answer would be given. In the course of conversation, he took occasion again to repeat, voluntarily, their disclaimer of any purpose to interfere with Texas, or to make or seek any permanent interest or control in Mexico. He said that our situation, as a next neighbour, entitled us to an influence there paramount to that of distant European countries, and that France, at her great distance from the scene, would not be guilty of the folly of desiring or attempting to interfere with us. He spoke highly of the conduct of Mr. Corwin, our minister in Mexico, who was reported to him as not having intrigued or interfered in these matters, but that he had always acted loyally and in good faith. Before leaving Mr. Drouyn de l'Huys (assuming the purposes of the Emperor to be as he represented them,) I asked him why he permitted so many false reports, as to his policy, to be circulated both in Europe and America. I told him that it seemed to me the interests of both countries demanded that they should cease, and that a frank avowal in the *Moniteur* would end them. He said there were objections to using the *Moniteur* for such purposes, but that there were his despatches, which might be published. I told him that the world was given to looking at despatches as savoring too much of diplomacy. He then said that the Emperor, at the opening of the „corps législatif," would have a proper opportunity, and he did not doubt that he would then declare his policy in Mexico, in conformity with the declarations heretofore constantly made to us. ¶ I am, &c.

William L. Dayton.

To Mr. Seward.

No. 1873.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Die Haltung der V.-Staaten zu der neuen Regierungsform in Mexico betr. —

Department of State, Washington, May 3, 1864.

No. 1873 Vereinigte Staaten, 3. Mai 1864.

Sir, — I thank you very sincerely for your despatch of the 15th of April, which contains information particularly new and interesting in regard to the proceedings which have culminated in the departure of the Archduke Maximilian from Trieste, with the intention to establish an imperial monarchy in Mexico. Every thinking observer must be fully satisfied, even without special evidence, that those events had their origin in a conspiracy of Mexicans against the independence and freedom of their own country. Nevertheless it will be fortunate for the future of Mexico, and for the cause of republican government there, if the history you have given me of the details of the conspiracy shall soon become generally known. ¶ You have very clearly explained the motives and sentiments which have induced so many of the influential statesmen and authorities of Europe to favor the subversion of the Mexican republic. All these motives and sentiments resolve themselves into a jealousy of the advancement of the United States. Their great prosperity and progress have necessarily provoked this political antagonism. You very justly lament the pertinacity with which the American people continue their suicidal division in presence of the apparent overthrow of their influence in Mexico, but it is the same blindness of faction which led us into the civil war. Only time and events can cure it, and these we may well believe are doing their work. No appeal to the reason or to the patriotism of the insurgents is heard so long as they entertain hopes of success in their desperate enterprise. The loyal people of the United States seem to have no need for new or increased devotion to the national cause. At all events, considerations of foreign and remote dangers can scarcely be expected to gain serious attention, when the immediate domestic perils of the conflict absorb the popular mind. I know no other way for us than to contemplate the situation calmly, do our whole duty faithfully, meet every emergency as it rises, with prudence, firmness, and force if necessary, and trust in God for a safe issue of the contest. ¶ I am, &c.

William H. Seward.

To Mr. **Adams**.

No. 1874.

VEREINIGTE STAATEN von **AMERIKA**. — Geschäftsträger in St. Petersburg an den Staatssecretär f. d. ausw. Ang. — Ergebniss einer Unterredung mit dem Kais. Russischen Min. d. Ausw., die vollkommenste Neutralität Russlands in den Beziehungen zu den Verein.-Staaten betr. —

[Extracts.]

Legation of the United States, St. Petersburgh, October 29, 1862.

No. 1874. Vereinigte Staaten, 29. Oct. 1862

Sir, — I have the honor to report to you that, immediately after the receipt of your despatch No. 14, of September 26, I applied for an interview with Prince Gortchacow, for the purpose of delivering into his hands the letter of his excellency the President to his Imperial Majesty Alexander II. My request was at once granted, and an early hour the next day was appointed; but the Prince having in the mean time been summoned to the town of Gatschina, some thirty miles from here, to confer with the Emperor, the interview was postponed until to-day. ¶ After having received the President's letter, which he promised to present to his Imperial Majesty without delay, the Prince entered upon a conversation concerning American affairs, which I deem so important that I hasten to report it, while his expressions are yet fresh in my mind, and can be communicated to you with the greatest possible exactness. ¶ He commenced by stating, in the strongest terms, his concern at the course which events are taking in the United States. „Your situation," said he, „is getting worse and worse. The chances of preserving the Union are growing more and more desperate. Can nothing be done to stop this dreadful war? Can you find no basis of arrangement before your strength is so exhausted that you must lose, for many years to come, your position in the world?" I answered, that the critical period in the fortunes of the war seemed now to be passed; our arms were again victorious, and, could the military strength of the rebellion be once fairly broken, it would be almost impossible for it to maintain itself longer. „It is not that alone," said he, „but the fury that seems to possess both sides—the growth of enmities which are making the gulf continually wider between the two sections. The hope of their reunion is growing less and less, and I wish you to impress upon your government that the separation, which I fear must come, will be considered by Russia as one of the greatest possible misfortunes." ¶ „To loyal Americans," I answered, „separation seems nothing less than national ruin, and precisely for this reason, there can be no negotiations at present with the rebel authorities. They would listen to no terms which did not include separation, and hence the war is still a terrible necessity. I have hopes, however, that a change may occur before the term of grace allowed by the President's proclamation expires. Have you noticed that the State of North Carolina is already taking some action on the subject?" ¶ „Yes," said he, „I have seen it. Russia alone has stood by you from the first, and will continue to stand by you. We are very, *very* anxious that some means should be adopted—that any course should be pursued which will prevent the division that now seems inevitable.

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One separation will be followed by another; you will break into fragments." ¶ „We feel this," I replied. „The northern and southern States cannot peaceably exist side by side as separate republics. There is nothing the American people desire so much as peace, but peace on the basis of separation is equivalent to continual war. We have only just called the whole strength of the nation into action. We believe the struggle now commencing will be final, and we cannot without disgrace and ruin accept the only terms upon which the rebels would treat until our strength has been tried and has failed." ¶ „You know the sentiments of Russia," the Prince exclaimed with great earnestness. „We desire, above all things, the maintenance of the American Union as one indivisible nation. We cannot take any part more than we have done. We have no hostility to the southern people. Russia has declared her position and will maintain it. There will be proposals for intervention. We believe that intervention could do no good at present. Proposals will be made to Russia to join in some plan of interference. She will refuse any invitation of the kind. Russia will occupy the same ground as at the beginning of the struggle. You may rely upon it, she will not change. But we entreat you to settle the difficulty. I cannot express to you how profound an anxiety we feel—how serious are our fears." ¶ We were standing face to face during the conversation, and the earnest, impassioned manner of the Prince impressed me with the fact that he was speaking from his heart. At the close of the interview he seized my hand, gave it a strong pressure, and exclaimed, „God bless you!" I felt that any further declaration of the grounds for encouragement which I see in the course of events at home would be useless. His excellency had evidently been disappointed in his hopes from the representations heretofore made to him. I thanked him for his frankness, and for the renewed declaration of the attitude of Russia. I had purposely abstained, in former interviews, from referring to current rumors of intervention in which Russia was to be invited to take part, because any such reference might have implied a doubt in the permanence of her friendship. The spontaneous expression of Prince Gortchacow in regard to the subject is thus all the more satisfactory. ¶ I fixed in my memory at the time, and have reproduced, almost word for word, the conversation that occurred between us. I judged it prudent to enter into no discussion concerning the impressions which the Prince has derived from recent events. His manner convinced me that he desired his words to be reported, and I was, therefore, anxious that he should express himself as fully as possible, with no more interruption on my part than was necessary in order to justify the government of the United States. ¶ The proclamation of the President, which I forwarded to Prince Gortchacow as soon as it arrived, was translated and published the next day in the „Journal de St. Pétersbourg," together with your circular which accompanied it. Since then the same paper which preserved a complete silence on American affairs during the period of our reverses has contained several pungent paragraphs in the interests of the Union. The „Journal" of yesterday, for instance, has the following: „As to the democratic meeting which has been held in New York, for the purpose of condemning the emancipation proclamation of Mr. Lincoln, and declaring that the

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republicans violate the Constitution, it will suffice to give a just measure of the value of this demonstration, to recall the fact that before the war commenced the friends of slavery in the United States were designated by the name of ‚democrats,' while that of ‚republicans' was given to the adversaries of the *peculiar institution.*" ¶ The proclamation has not excited much surprise at this court. So far as I have been able to ascertain the impression which it has produced among intelligent Europeans, it is considered a justifiable measure. Some doubts have been expressed in the diplomatic circle here whether it can be enforced without a military occupation, which would insure submission in any case, but the general feeling is favorable to the step. Among the Americans whom I have met, those who formerly belonged to the „Breckinridge" wing of the democratic party have been strongest in their expressions of satisfaction. ¶ I shall do my best to promote the confidence of our friends, which term includes all Russians, and a large proportion of the foreign residents here, although painfully conscious that arguments and representations, however just and telling, are beginning to lose much of their force. I am waiting iu the most anxious expectation to be strengthened by deeds. The conversation recorded above is, in some respects, a type of much in which I must take a daily part. Speculations concerning the future are no longer received. Apparent inaction is considered almost equivalent to defeat. And even that better knowledge of an American, which supports his own hope and confidence, is partly neutralized by the disappointments of this year. For my part, I can scarcely doubt the issue without doubting the justice of God; but I am forced to encounter a feeling in others which my own confidence cannot overcome. ¶ I have also to announce a change in the ministry, which may have some bearing on the interests of American citizens in Russia. A letter of the Emperor was published on Sunday last, allowing General Chefkin to retire from his post as chief director of the ways of communication. He is succeeded by General Melnikoff, of the engineers, a man of distinguished talents and acquirements, who has travelled in the United States, and is said to be anxious to enlist American enterprise in the great system of railroad communication which the imperial government has planned. As Mr. Collins's project of telegraphic connexion has been referred to this department, I anticipate a much more speedy and favorable report upon it than could have been expected during the direction of General Chefkin. The change which has been rumored for a month past has, no doubt, delayed action upon the subject; but I hope soon to be able to announce to you its acceptance by the imperial government. ¶ I have, &c.

Bayard Taylor,
Chargé d'Affaires.

To Mr. Seward.

No. 1875.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. im Haag. — Mittheilung des Congress-Beschlusses der Verein.-St., enthaltend die Verwahrung gegen jede fremde Intervention. —

Circular.

Department of State, Washington, March 9, 1863.

No. 1875. Vereinigte Staaten, 9. März 1863.

Sir, — By direction of the President, I transmit to you a copy of concurrent resolutions of the Congress of the United States concerning foreign intervention in the existing rebellion. ¶ In compliance with a request made by that body, you are instructed to make the resolutions known to the government to which you are accredited. You will perform that duty by reading the resolutions to the minister for foreign affairs, or by delivering to him a copy thereof, if that course shall be preferred by him. ¶ You are authorized to say, at the same time, that the resolutions are entirely in harmony with the principles and policy by which all the President's proceedings in regard to the question involved have been, and will continue in every emergency to be, regulated. ¶ I am, &c.

William H. Seward.

To Mr. Pike.

Same to all the diplomatic agents of the United States.

Anlage. — Concurrent Resolutions of Congress concerning foreign intervention in the existing rebellion.

Whereas it appears from the diplomatic correspondence submitted to Congress that a proposition, friendly in form, looking to pacification through foreign mediation, has been made to the United States by the Emperor of the French, and promptly declined by the President; and whereas the idea of mediation or intervention in some shape may be regarded by foreign governments as practicable, and such governments, through this misunderstanding, may be led to proceedings tending to embarrass the friendly relations which now exist between them and the United States; and whereas, in order to remove for the future all chance of misunderstanding on this subject, and to secure for the United States the full enjoyment of that freedom from foreign interference which is one of the highest rights of independent states, it seems fit that Congress should declare its convictions thereon: Therefore ¶ *Resolved*, (the House of Representatives concurring,) That while in times past the United States have sought and accepted the friendly mediation or arbitration of foreign powers for the pacific adjustment of *international* questions, where the United States were the party of the one part and some other sovereign power the party of the other part; and while they are not disposed to misconstrue the natural and humane desire of foreign powers to aid in arresting *domestic* troubles which, widening in their influence, have afflicted other countries, especially in view of the circumstance, deeply regretted by the American people, that the blow aimed by the rebellion at the national life has fallen heavily upon the laboring population of Europe: yet, notwithstanding these things, Congress cannot hesitate to regard every proposition of foreign interference in

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the present contest as so far unreasonable and inadmissible that its only explanation will be found in a misunderstanding of the true state of the question and of the real character of the war in which the republic is engaged. ¶ *Resolved*, That the United States are now grappling with an unprovoked and wicked rebellion, which is seeking the destruction of the republic that it may build a new power, whose corner-stone, according to the confession of its chiefs, shall be slavery; that for the suppression of this rebellion, and thus to save the republic, and to prevent the establishment of such a power, the national government is now employing armies and fleets, in full faith that through these efforts all the purposes of conspirators and rebels will be crushed; that while engaged in this struggle, on which so much depends, any proposition from a foreign power, whatever form it may take, having for its object the arrest of these efforts, is, just in proportion to its influence, an encouragement to the rebellion and to its declared pretensions, and on this account is calculated to prolong and embitter the conflict, to cause increased expenditure of blood and treasure, and to postpone the much-desired day of peace; that, with these convictions, and not doubting that every such proposition, although made with good intent, is injurious to the national interests, Congress will be obliged to look upon any further attempt in the same direction as an unfriendly act which it earnestly deprecates, to the end that nothing may occur abroad to strengthen the rebellion or to weaken those relations of good will with foreign powers which the United States are happy to cultivate. ¶ *Resolved*, That the rebellion, from its beginning, and far back, even in the conspiracy which preceded its outbreak, was encouraged by the hope of support from foreign powers; that its chiefs frequently boasted that the people of Europe were so far dependent upon regular supplies of the great southern staple that, sooner or later, their governments would be constrained to take side with the rebellion in some effective form, even to the extent of forcible intervention, if the milder form did not prevail; that the rebellion is now sustained by this hope, which every proposition of foreign interference quickens anew, and that without this life-giving support it must soon yield to the just and paternal authority of the national government; that, considering these things, which are aggravated by the motive of the resistance thus encouraged, the United States regret that foreign powers have not frankly told the chiefs of the rebellion that the work in which they are engaged is hateful, and that a new government, such as they seek to found, with slavery as its acknowledged corner-stone, and with no other declared object of separate existence, is so far shocking to civilization and the moral sense of mankind that it must not expect welcome or recognition in the commonwealth of nations. ¶ *Resolved*, That the United States, confident in the justice of their cause, which is the cause, also, of good government and of human rights everywhere among men, anxious for the speedy restoration of peace, which shall secure tranquillity at home and remove all occasion of complaint abroad, and awaiting with well-assured trust the final suppression of the rebellion, through which all these things, rescued from present danger, will be secured forever, and the republic, one and indivisible, triumphant over its enemies, will continue to stand an example to mankind, *hereby announce*, as their unalterable purpose, that the war will be vigorously prosecuted, according to the humane principles of Christian states, until the rebellion shall be overcome; and they reverently invoke upon their cause the blessings of Almighty God.

No. 1876.

VEREINIGTE STAATEN von AMERIKA. — Gesandter in London an den Königl. Grossbrit. Min. d. Ausw. — Die Anwerbung Britischer Unterthanen auf englischem Boden durch Agenten der Rebellenstaaten betr. —

Legation of the United States, London, December 7, 1863.

No. 1876. Vereinigte Staaten, 7. Dec. 1863.

My Lord, — I have the honor to submit to your consideration a copy of a letter from Mr. Dudley, consul of the United States at Liverpool, covering a number of depositions, all going to establish in the clearest manner the existence of a regular office in the port of Liverpool for the enlistment and payment of British subjects, for the purpose of carrying on war against the government and people of the United States. The persons concerned in these illegal transactions appear to be themselves all British subjects, knowingly engaged in violating the neutrality of their country, and, so far as it may be in their power, laboring to involve it in a war with a friendly nation with which it is at peace. ¶ It is now some time since I first had the honor to call your lordship's attention to the fact of the systematic manner in which the insurgents of the United States have conducted a plan to violate in her own kingdom the neutrality proclaimed by her Majesty at an early period in this contest. Every day that has since passed has only contributed more thoroughly to expose the various forms in which it is carried forward. I trust that the extraordinary character of these proceedings, as well as the hazardous consequence to the future peace of all nations of permitting them to gain any authority under the international law, will not fail to fix the attention of her Majesty's government. I pray, &c.

Charles Francis Adams.

To Earl Russell.

No. 1877.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Die Entlassung in den Dienst der s. g. Conföderirten Staaten getretener Britischer Unterthanen aus der Brit. Marine, resp. deren Einberufung betr. —

[Extract.]

Legation of the United States, London, December 22, 1863.

No. 1877. Vereinigte Staaten, 22. Dec. 1863.

Sir, — I perceive from the newspapers of this morning that orders have been issued to dismiss all persons from the naval reserve, and forfeit their allowances, who have been enlisted in any of the rebel vessels. ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

No. 1878.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Vorstellungen gegen fernere Anwerbung Brit. Seeleute durch Agenten der Rebellenstaaten —.

Department of State, Washington, January 6, 1864.

No. 1878. Vereinigte Staaten, 6. Jan. 1864.

Sir, — I acknowledge the receipt of your despatch of the 11th of December, which is accompanied by a copy of the correspondence which has taken place between yourself and Earl Russell on the subject of the enlistment of pirates and equipment of ships-of-war by British subjects, and their naval operations on the high seas, against the unarmed merchantmen of the United States. The papers you have thus submitted to his lordship prove beyond a possible doubt that a systematic naval war has been carried on for more than a year by subjects of her Majesty from the British island as a base, and there is every reason for believing that unremitted efforts are made to give that warfare increased vigor and extension. It now appears from these papers that the belligerents have a regularly constituted treasury and counting-houses, with agents in London for paying the wages of the British subjects who are enlisted there in this nefarious service. Hitherto remonstrances made by the United States to her Majesty's government have been held inconclusive and unsatisfactory, because it was said that they were not attended with such clear, direct, and conclusive proofs of the offences complained of, as would enable the government to arrest the offenders, and apply judicial correction to the practices indicated. It seems to the President that this difficulty has now been fully and completely removed. Having recently brought to the knowledge of her Majesty's government flagrant violations of our national rights of a similar kind attempted in her Majesty's North American provinces, and having still more recently given to Earl Russell, through your hands, the avowal of all these transactions by domestic conspirators against the United States, it only remains for me to inform you that the President awaits with deep concern a determination by her Majesty's government of the grave question which you have been instructed to submit to them, namely, whether that government will adopt any new measures to put an end to practices which are not less intolerable to the United States than they are inconsistent with the neutrality which her Majesty has proclaimed and enjoined upon all of her subjects. In writing so earnestly upon this subject, I do not by any means forget that recently her Majesty's government have taken measures to detain certain vessels which were being built for the purpose of carrying on war with the United States, nor do I overlook the fact that her Majesty's government have promised due attention to a special complaint which is referred to in this communication. The President does not, in the least, doubt that her Majesty's government are earnestly and seriously engaged in considering several of such complaints, distinctly and separately. Nevertheless, I trust that I shall not be thought unreasonably importunate in asking you again to press the general subject upon the attention of her Majesty's government, in the light of the facts now first brought to the

knowledge of this department. Alarming events are occurring on our borders, prosecutions are pending in Great Britain. We have been obliged to institute a special naval and military police in the port of New York, which must soon prove as annoying to lawful traders from friendly states as to our own citizens, and thus new irritations are arising, and new controversies are gathering up between the two countries. ¶ On our part we trace all the evils to an unnecessary, and, as we think, an anomalous recognition by her Majesty's government of insurgents as a naval power who have no pretensions to that title. We desire to know whether, after all its gross abuses and injurious consequences, that concession must remain unrevoked and unmodified. If it must remain, then we desire to know whether her Majesty's government can apply a cure to these abuses and consequences, or whether we are expected to devise and provide the proper remedies. If the British government is to do nothing, and the United States everything, I know not what security commerce can ever have hereafter against universal practices of privateering and piracy, except that even the lawful trade between friendly countries must be carried on under the protection of ever present and adequate armed force. ¶ I am, &c.

No. 1878. Vereinigte Staaten, 6. Jan. 1864.

William H. Seward.

To Mr. Adams.

No. 1879.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Die Anwerbungen Brit. Unterthanen für den Dienst der Rebellenstaaten betr. —

Legation of the United States, London, April 16, 1864.

My Lord, — I have the honor to transmit to you a copy of portions of a letter addressed to me by Mr. Morse, consul of the United States at this port, and likewise copies of depositions of twenty-one persons, mostly British subjects, who have been enlisted in the service of the insurgents at various places in this kingdom. The originals of all these papers have been submitted to my examination. I have reason to believe that these are but a small portion of the number who stand ready to attest to the truth of the same facts, if there were any need to multiply testimony to convince your lordship of what has been long notorious. ¶ When I remember how promptly her Majesty's government has done me the honor to call for explanations in the only case in which any allegation of the kind, sustained by evidence, has been made against persons in the employment of the United States, I cannot but permit myself the hope that the exercise of similar energy may have some effect in putting a check on what is plainly a systematic plan by insurgent emissaries and their British allies to violate the neutrality of her Majesty's kingdom, to the injury of a country with which it is at peace. I pray, &c.

No. 1879. Vereinigte Staaten, 16. April 1864.

Charles Francis Adams.

To Earl Russell.

No. 1880.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Weiteres Material zur Angelegenheit der Werbungen von Seiten Conföderirter Agenten in England. —

Legation of the United States, London, April 22, 1864.

No. 1880. Vereinigte Staaten, 22. April 1864.

Sir, — In relation to the suggestion made in your despatch No. 893, of the 4th of April, I have already anticipated it in a note addressed to Lord Russell on the 16th instant, based on the depositions of twenty-one persons enlisted by the rebel agents, furnished to me by Mr. Morse. These papers are so voluminous that copies will not be ready for this week's steamer. They will be sent next week, in company with my note. ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

No. 1881.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Uebersendung weiterer Depositionen [3], die Anwerbung Brit. Unterthanen durch Agenten der Rebellenstaaten betr. —

Legation of the United States, London, May 4, 1864.

No. 1881. Vereinigte Staaten, 4. Mai 1864.

My Lord, — I have the honor to submit to your consideration copies of three more depositions, still further corroborating previous evidence as to the part taken by Mr. Rumble, an officer in her Majesty's service, at Sheerness, in providing men for the service of the insurgents of the United States. I would further solicit your lordship's particular attention to that portion of the evidence relating to the efforts of Mr. Rumble to obtain, by intimidation, a retraction of the testimony heretofore given against him. ¶ Renewing, &c.

Charles Francis Adams.

To Earl Russell.

No. 1882.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Uebersendung weiterer Depositionen [13], die Anwerbung Brit. Unterthanen durch Agenten der Rebellenstaaten betr. —

Legation of the United States, London, May 23, 1864.

No. 1882. Vereinigte Staaten, 23. Mai 1864.

My Lord, — I have the honor to submit to your consideration a number of additional depositions, all going to show the continuance of the practice of enlistments of British subjects by the insurgents of the United States and their agents within this kingdom. ¶ I pray, &c.

Charles Francis Adams.

To Earl Russell.

No. 1883.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die Anwerbungen in England durch Agenten der Rebellenstaaten betr. —

Department of State, Washington, June 27, 1864.

No. 1883. Vereinigte Staaten, 27. Juni 1864.

Sir, — If the British people form an opinion concerning enlistments in England in violation of the neutrality laws from the debates in the House of Lords, they must come to the conclusion that it is not Great Britain that is injuring the United States, but the United States that are invading the sovereignty of Great Britain in that way. They will of course be undeceived when the correspondence of the two governments shall come to light. I give you, herewith, a copy of a resolution of the Senate on that subject, and of the President's answer to the Senate. ¶ I am, &c.

William H. Seward.

To Mr. **Adams**.

No. 1884.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Die gerichtliche Untersuchung zu Liverpool, die Werbungen Brit. Unterthanen durch Agenten der Rebellenstaaten betr. —

Legation of the United States, London, August 18, 1864.

No. 1884. Vereinigte Staaten, 18. Aug. 1864.

Sir, — I have now the honor to transmit a copy of the London Star of the 15th instant, containing reports of further trials, held at Liverpool, for violations of the foreign enlistment act. ¶ In all these cases it is apparent that the result is gained by the government, without serious resistance, the only penalty to the guilty parties being an entry into obligations not to repeat the offence. It is plain that the verdict must have been practically arrived at by consent. It is possible that even by this means some additional strength may be gradually acquired by the government towards a proper enforcement of the law in future cases. There yet remains one in which this point will probably be tested. I allude to that of Mr. Rumble.*) This is the most flagrant of them all. Although the evidence to convict him is of the strongest character, it is not certain that it will avail, should he persist in his intention to contest it. I have casually had a few words with the solicitor general on the subject, from which I infer that, though very confident of his opinion on the merits of the question, he is not altogether without mistrust of the effect of technical litigation on the defensive side if thoroughly resorted to. ¶ I have, &c.

Charles Francis Adams.

To Mr. **Seward**.

*) Derselbe hatte unter dem Vorgeben, er sei detective und Kön. Beamter, die von ihm Verlockten einzuschüchtern versucht.

Anlage. — Verhör und Urtheil wegen Verletzung der „Foreign Enlistment Act". —

No. 1884. Vereinigte Staaten, 18. Aug. 1864.

The charge of infringing the Foreign Enlistment Act. ¶ James Cunningham (who had been out on bail) was indicted for having, on the 9th of February, infringed the foreign enlistment act. Mr. Attorney General James, Q. C., with Mr. Lushington, appeared for the prosecution; Mr. Littler for the prisoner. ¶ The attorney general said the indictment was instituted by her Majesty's government under a sense of duty which called upon the executive to prosecute the defendant for a transgression of the law. No man in this country could be ignorant of the difficulties which were very likely to occur supposing the government did not hold the scales of neutrality with perfect equality. Of course everybody was well aware of the difficulties which had occurred in this country, more especially with respect to the great case of the Alexandra. This case did not pretend to vie with that in importance, but still it was one of very great importance to the interests of all, because he was quite sure all of us would be very loath to be involved in a war with the United States brought about by the illegal acts of any one of the subjects of this country; and consequently it was the duty of all to do all in their power to prevent complications of that kind. He stated the circumstances under which the foreign enlistment act was passed, and explained that by the second section of that act British subjects enlisting in this country, or engaging to enlist to serve in a foreign service, or going from this country with the intention of doing so, were guilty of a misdemeanor. The indictment was laid under that section, and the prisoner was charged with having himself engaged to serve on board one of the confederate ships, and also under various counts with having induced and procured others to go from this country intending them to engage in warlike operations on behalf of the confederates. Having stated the circumstances under which the charge was brought, he would now mention the facts. The vessel was one of which they all had heard, and was called the Rappahannock, and was formerly the Victor, a ship in her Majesty's navy, which, being sold by government, was afterwards purchased on behalf of the southern confederacy. The prisoner in the month of February collected together a number of engineers and firemen, and offered them at a public house, in Athol street, very good wages indeed if they would agree to go to the East Indies in a vessel that, he said, was lying off Gravesend. The ordinary wages of an engineer were some £ 10 or £ 12 a month, but the prisoner offered the men £ 17 a month. He also offered the firemen £ 6 10*s.* a sum considerably beyond the ordinary sum paid in the merchant navy. Some representations were made to the men, and he (the attorney general) was glad to say the people of this country were nothing loath to enter into speculations of a business kind provided they were well paid. The men in question were told that they need not bring their clothes with them, so that they had not to find their own kit. The men met at the Lime street station, and were conveyed thence to London. On arriving at Euston square station they were conveyed in cabs to the London bridge station, where they again took train, and were conveyed to Dover. At this place they were refreshed very liberally with drink. They were then told that their vessel was in the stream, and that a steamer there was her tender. They went on board the steamer, which turned out to be the Calais boat, where they were all taken on board the Rappahannock. On the engineers being taken down into the cabin they were told that they were about to enter into the service of the Confederate States; and, in reply to a question put to them, they expressed their willingness to serve. After entering into an agreement to do so, they were taken on shore and supplied with the confederate uniform. On the firemen being asked if they would enlist in the confederate service, they expressed their surprise, and said they had not come there for that purpose. They stated that they were willing to carry out their agreement as made in Liverpool, and they were ultimately sworn to do so. Subsequently there was a dispute on board the Rappahannock, and some of the

men were put in irons. On being released they seized the first opportunity of running away, and it was upon the information given by them that the present proceedings were taken. If he (the attorney general) should prove the facts to which he had called their attention, he asked them to convict the prisoner. The object which her Majesty's government had in view in instituting that prosecution was rather to prevent than to punish, and to show that no person could with impunity violate the law. The peace of this country could only be insured by a faithful observance of that neutrality which we professed with respect to the unhappy war now being waged in America, and by such conduct as that with which the prisoner was now charged he had rendered himself amenable to the law. ¶ The engineers and firemen engaged by the prisoner were then called, and they proved the facts stated in the opening speech of the learned counsel, and stated that the railway tickets for their journey to London and Dover were given to them by the prisoner, who was the second engineer of the Rappahannock. The tickets were purchased by a person named Codd. ¶ Mr. Henry William Sanders, the signet clerk in the office for the secretary of state for the home department, proved that not license was given to the prisoner either to enlist himself or to cause others to enlist in the service of the Confederate States. Mr. Herbert Manson Suft gave similar evidence. ¶ Mr. Littler, having taken two or three legal objections to the counts in the indictment, proceeded to address the jury on the facts, remarking that it was not proved that the prisoner was aware at the time he engaged the engineers and the firemen that he and they were going on board a foreign ship-of-war; and although the wages he offered were unusually high, he might have really thought the men would be required for mercantile purposes. ¶ His lordship, in summing up, remarked upon the charming simplicity with which the learned counsel alluded to the prisoner's probable ignorance of the purposes for which the men would be required, and said it would be for the jury to say whether or not the prisoner had been clearly proved to have infringed the provisions of the foreign enlistment act. ¶ The jury immediately returned a verdict of guilty. ¶ Mr. Littler then stated that the prisoner, who bore an excellent character, was very sorry for what he had done, and trusted that, under the circumstances, his lordship would not sentence him to imprisonment. ¶ Mr. L. Temple said he appeared for Joseph Buchanan, who was also charged with having infringed the foreign enlistment act; and his client was willing to plead guilty to having enlisted in the confederate service, but he denied having induced others to enlist. He might mention to his lordship that Lord Chief Justice Erle had, in the case of a former trial at the central criminal court, London, for infringing the same act, by enlisting for the Rappahannock, ordered the man to enter into his own recognizances to appear to receive judgment when called upon. ¶ Buchanan was then placed in the dock with Cunningham, and pleaded guilty. ¶ The attorney general having stated that he had no observations to make with respect to the punishment which he thought the prisoners ought to receive. ¶ His lordship said he was willing to pass the same sentence as that passed by his brother Erle. It must, however, be clearly understood that if a man violated the law, he would, when apprehended, be punished for so doing. Any repetition of the offence of which the prisoner had been guilty would be treated with such severity as the law allowed. It was essential for the interests of England that the subjects of her Majesty should not go and enlist in the service of a foreign state that was at that time a belligerent, and by their conduct possibly embroil in war this country. That was an offence, and a very grave offence, against the law, but the prisoners would on this occasion be liberated on entering into their own recognizances in the sum of £ 150 each to appear to receive judgment, if required to do so. So long as the prisoners did not again offend they would not be required to appear, but if they did offend they might rely upon it the judgment now passed would be enforced, and, further, that they would be severely punished. ¶ The prisoners then entered into the required sureties and were liberated.

No. 1885.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Bemerkungen über das wegen Verletzung der foreign Enlistment-Act ergangene Urtheil. —

Department of State, Washington, September 20, 1864.

No. 1885. Vereinigte Staaten, 20. Sept. 1864.

Sir, — I have the honor to acknowledge the receipt of your despatch of the 18th of August, which gives a report of two further trials for violations of the enlistment laws, in each case with the same result—a conviction by court, followed by a discharge, or a penal obligation not to repeat the offence. ¶ Certainly this mode of proceeding has very little tendency to vindicate the laws or assure the neutrality of Great Britain. Another prosecution, however, is pending, and is expected to be brought to trial very soon. The President will reserve the definitive disposition of the subject until the result of that trial shall be made known. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1886.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Die beabsichtigte Anleihe zu Gunsten der s. g. Conföderirten Staaten in England betr. —

[Extract.]

Legation of the United States, London, March 26, 1863.

No. 1886. Vereinigte Staaten, 26. März 1863.

Sir, — Last week there was transmitted from this legation a printed copy of the proposals to open a loan here for three millions sterling on the basis of cotton supposed to be in the hands of the so-called authorities at Richmond. By virtue of concerted operations between parties specially enlisted in Liverpool, Manchester, and London, and the various newspapers, a great appearance of success was at first imparted to it; and stories were extensively circulated of offers made to an amount five times greater than the sum wanted. As a consequence, it was formally announced that the premium for the bonds before issued had run up at once as high as five per centum; hence the affair was pronounced a great success. This was on Saturday last, but since that time the premium is reported as steadily falling the three days of this week, until yesterday, when it went down to one-half per cent., and then rallied again to one and a quarter. ¶ On the whole, I am led to the conclusion that the loan has been mainly taken, in the first place, by parties who are creditors to the rebels for supplies of all kinds heretofore rendered, and who expect to be able to get out by prompt sales; and, secondly, by another class who have been tempted by the visionary great profits to be obtained on the ultimate acquisition of the cotton security at what appears a low price. ¶ The substantial advantage to the rebels is the abi-

lity thus obtained to continue their extensive operations here in outfits of vessels and munitions of war. But the contract with the undertakers is understood to have been made at such an oppressive rate as not to net the borrowers quite half of the nominal amount of the loan, whilst the terms of payment are so slow and gradual as to place but small resources in their hands at any one time. The probability is, that the sums to be received have already been pretty much absorbed by the engagements made or making on this side of the water. ¶ The effect of this measure has been quite considerable. On the one hand, it appears to release the government of the United States from all further obligation fo facilitate the export of cotton to foreign countries. Practically the article becomes contraband of war quite as much as those of cannon, gunpowder, and rifles, which it now exclusively represents. On the other, the conviction of the objects for which this money is mainly to be used has given an additional impetus to the efforts of persons friendly to the maintenance of peaceful relations with us. They well understand the policy adopted by the rebel emissaries to blow up strife by the multiplication of these piratical cruisers as causes of irritation, and in the end hostilities, and hence they become more earnest in their demands upon this government for increased energy in checking it. As an evidence of this, I transmit copies of a petition of the Union and Emancipation Society of Manchester to Parliament, which has been presented by Mr. Bright. There is to be a great assembly of the Trades Unions of London this evening at St. James's Hall, where Mr. Bright has consented to preside, at which it is expected that similar sentiments will be strongly expressed. I have received a very friendly invitation to be present, in order to be myself a witness of the tone of the working classes on this subject, but I respectfully declined on the ground of my wish to avoid even the suspicion of a desire to bias the free and independent expression of the public opinion here. ¶ I have, &c.

No 1886. Vereinigte Staaten, 26. März 1863.

Charles Francis Adams.

To Mr. Seward.

No. 1887.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Weitere Aufklärungen über die beabsichtigte Anleihe für die s. g. Conföderirten Staaten. —

[Extracts.]

Legation of the United States, London, April 3, 1863.

Sir, — ***. The loan in favor of the rebels, which seemed to begin so auspiciously, has been gradually losing attractive appearance until yesterday, when it fell below par. This is not a favorable augury for settlement day, which is approaching. I do not think it receives much countenance in responsible quarters. Still it may help creditors out of their difficulties, and encourage them to complete contracts. ¶ Some effort is making to stimulate the public feeling about the capture of the Peterhoff, to which end the name of Admiral

No. 1887. Vereinigte Staaten, 3. April 1863.

No. 1887. Vereinigte Staaten. 3. April 1863.

Wilkes is loudly sounded to revive odium. The Times of yesterday had a leader on the subject, which may possibly have been inspired from official sources, but is more likely to have come from Lloyds, where there is heavy insurance on the ship. ¶ The secret letter of Messrs. Bennett & Wake, of the 24th November last, which originated this novel form of smuggling through Brownsville, has been so long before you that the matter scarcely needs further comment. The disappointment of the contrivers here is extreme. ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

No. 1888.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die in England projectirte Anleihe zu Gunsten der s. g. Conföderirten Staaten betr. —

[Extracts.]

Department of State, Washington, April 10, 1863.

No. 1888. Vereinigte Staaten, 10. April 1863.

Sir, — This government has heard with surprise and regret that a loan has been made in London to the insurgents, with conditions of security and payment openly hostile to the United States, and it has good reason for assuming that most or all of the moneys thus loaned are paid to British subjects residing in Great Britain for advances in money, labor, arms, military stores and supplies used in the fitting out of those hostile expeditions, in violation of the Queen's proclamation and of the enlistment acts of Great Britain, as well as of treaties and the law of nations. The President does not for a moment believe that her Majesty's government have lent or will lend any sanction or approval to these proceedings of her Majesty's subjects; but he regrets that he is unable to perceive that any part of those transactions, so inimical to the United States, and apparently so universally known in Great Britain, have arrested the attention of her Majesty's government, or encountered any opposition, or even any manifestation of its disapprobation or censure. ¶ The loan made by European capitalists is a direct engagement with the armed insurgents who have assumed to control, supply, and deliver cotton for the reimbursement of the money advanced, with interest. You will give notice to Earl Russell that this transaction necessarily brings to an end all concessions, of whatever form, that have been made by this government for mitigating or alleviating the rigor of the blokade in regard to the shipment of cotton and tobacco. Nor will any title of any person, whether citizen of the United States or subject of a foreign power, to any cotton or merchandise, which title is derived from or through any pretended insurgent authority or other agency hostile to the United States, be respected by this government. ¶ It would be to evince a want of frankness and good faith if we should fail to inform Great Britain that in this country the proceedings to which I have referred have come to be regarded, equally by the people and the government, as tending to complicate the relations between the two countries in such a manner as to render it difficult, if not altogether impossible, to main-

tain and preserve friendship between them; a result which the President believes is as far from being desired by Great Britain as it is from being the policy or the wish of the United States. After the resort to the courts of the United Kingdom which the President has specially authorized as a sequel to the applications and remonstrances which you have made, thus far without any effective result, this government is not now aware of any other measures remaining within its power to arrest the tendency I have described and to avert the calamities I have deprecated. If it be in the power of the British government to suggest anything further that it may be thought possible and proper for the United States to do with that view, the suggestion will be received and considered with the utmost candor and respect. ¶ You will, in such manner as shall seem most proper, bring these views to the knowledge of her Majesty's government. ¶ I am, &c.

No. 1888. Vereinigte Staaten, 10. April 1863.

William H. Seward.

To Mr. Adams.

No. 1889.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an den Kön. Grossbrit. Min. d. ausw. Ang. — Das in England projectirte s. g. „Cotton-loan" zu Gunsten der Conföderirten Staaten betr. —

Legation of the United States, London, April 28, 1863.

My Lord, — I am instructed to inform your lordship that the government of the United States has heard with surprise and regret of the negotiation of a loan in this city, with conditions of security and payment openly hostile to the United States, and under the strongest presumption that the funds thus supplied are to be used in fitting out expeditions, in violation of her Majesty's proclamation and of the law of the land, as well as of treaties and the law of nations. The President does not for a moment believe that her Majesty's government have lent or will lend any sanction or approval to these proceedings. The painful fact, nevertheless, is forced upon his attention that this loan contains a direct engagement with the armed insurgents, who have assumed to control, supply, and deliver cotton for the reimbursement of the money advanced, with interest. Hence it becomes an imperative duty to apprise her Majesty's government that this transaction must bring an end to all concessions, of whatever form, that may have been heretofore made for mitigating or alleviating the rigors of the blockade in regard to the shipment of cotton. Neither can any title of any person, whether citizen of the United States or subject of a foreign power, to any cotton or other merchandise, which title is derived from or through any pretended insurgent authority, or other agency hostile to the United States, be respected. ¶ It has always been, and it still continues to be, the desire of my government to do everything in its power to lighten the difficulties which inevitably follow a state of war to all friendly nations. I am sure that it is with the greatest reluctance it finds itself compelled by the offensive acts of apparently irresponsible parties, bent upon carrying on hostilities under the shelter of neu-

No. 1889. Vereinigte Staaten, 28. April 1863.

No. 1889. Vereinigte Staaten, 28. April 1863.

trality, to restrict rather than to expand the avenues of legitimate trade. The responsibility for this must rest mainly upon those who, for motives best known to themselves, have labored and continue to labor so strenuously and effectually to furnish the means for the protraction of the struggle. ¶ Renewing, &c.

Charles Francis Adams.

To Earl Russell.

No. 1890.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Verein.-Staaten in London. — Die Anleihe zu Gunsten der s. g. Conföderirten Staaten betr. —

Foreign Office, May 1, 1863.

No. 1890. Grossbritannien, 1. Mai 1863.

Sir, — I have the honor to acknowledge the receipt of your letter of the 28th ultimo, acquainting me that in consequence of the negotiation in London of a loan, with conditions of security and payment openly hostile to the United States, and under the strongest presumption that the funds thus supplied are to be used in fitting out expeditions in violation of her Majesty's proclamation and of the laws of the land, as well as of treaties, and of the law of nations, the President of the United States puts an end to all concessions, of whatever form they may have heretofore been made, for mitigating or alleviating the rigors of the blockade in regard to the shipment of cotton; and, further, that the title of any person, whether citizen of the United States or subject of a foreign power, to any cotton or other merchandise, which title is derived from or through any pretended insurgent authority or other agency to the United States, cannot be respected. ¶ I have, &c.

Russell.

To Mr. Adams.

No. 1891.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Verein.-Staaten in London. — Ablehnung der von den Verein.-Staaten erhobenen Ansprüche auf Schadenersatz für die durch die „Alabama" vernichteten Schiffe. —

Foreign Office, September 14, 1863.

No. 1891. Grossbritannien, 14. Sept. 1863.

Sir, — In acknowledging the receipt of your letter of the 24th ultimo, in which you request that Messrs. Upton's claim on account of the destruction of their vessel, the Nora, by the Alabama, may be added to others of the same kind, which you have heretofore presented to me, I must, on the part of her Majesty's government, repeat the disclaimer which, on more than one occasion, I have already made to you of all responsibility in regard to the proceedings of the Alabama, or of any other confederate cruiser. ¶ But, as it is stated in your letter that the Alabama was „fitted out and despatched from the port of Liver-

pool," and as these words imply that you suppose she was fitted out as a vessel-of-war, I have thought it right to ask Mr. Laird how far that statement is borne out by the facts; and I have the honor to enclose, for your information, a copy of a letter which I have received from that gentleman in reply, stating that, from the information he had received, it appears that the Alabama was not fitted out at Liverpool as a vessel-of-war. When the United States government assume to hold the government of Great Britain responsible for the captures made by vessels which may be fitted out as vessels-of-war in a foreign port, because such vessels were originally built in a British port, I have to observe that such pretensions are entirely at variance with the principles of international law and with the decisions of American courts of the highest authority; and I have only, in conclusion, to express my hope that you may not be instructed again to put forward claims which her Majesty's government cannot admit to be founded on any grounds of law or justice. ¶ I have, &c. *Russell.*

No. 1891. Grossbritannien, 14. Sept. 1863.

Anlage. — Bericht des Brit. Schiffbauers zu Birkenhead über die Kriegsausrüstung der Alabama.

Birkenhead, September 2, 1863.

Sir: In reply to your letter of the 21st of August, stating that Lord Russell will feel much obliged to me if I can inform him „how far it is true the Alabama was fitted out as a vessel-of-war at Liverpool before she left that port." I request that you will inform his lordship that I am not able, from my own personal observation or knowledge, to reply to his lordship's inquiry, as I did not see the Alabama after the first week in July, 1862, being some weeks before she sailed.

In order to obtain for his lordship, from a reliable source, the information he has asked for, I have made inquiries from my successors in business, the firm of Laird Brothers, the builders of the vessel now called the Alabama, and I am authorized by them to state that the vessel referred to was delivered by them at the port of Liverpool, and that at the time of delivery she was not fitted out as a vessel-of-war.

They also confirm in every respect the report of Mr. Morgan, the surveyor of customs at Liverpool, dated 30th July, 1862, (ordered by the House of Commons to be printed 24th March, 1863,) in which he states that a strict watch had been kept upon the vessel, and that she left the port without any part of her armament on board. I am, &c. *John Laird.*

No. 1892.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Instruction, die Aufrechterhaltung der Entschädigungsansprüche für die durch die „Alabama" angerichteten Schäden betr. —

Department of State, Washington, October 6, 1863.

Sir, — Your despatch of the 18th of September,*) has been received, together with a copy of the correspondence which has been held by you with

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*) Worin bemerkt wird, dass „Lord Russell is becoming *a little sensitive* to the multiplication of the claims for damage done by the Alabama."

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Earl Russell on the subject of the claims of the owners of the ship Nora, which was destroyed by the war steamer Alabama. Earl Russell produces what he pronounces satisfactory evidence that that steamer was not fitted out at Liverpool as a ship-of-war. He then says, that when the United States government assumes to hold the government of Great Britain responsible for the captures made by vessels which may be fitted out as vessels-of-war in a foreign port, because such vessels were originally built in a British port, he, Earl Russell, has to observe that such pretensions are entirely at variance with the principles of international law, and with the decisions of American courts of the highest authority. ¶ You refer me to these statements of Earl Russell, and ask for instructions upon the question thus raised. ¶ The United States understand that they are at peace with Great Britain, and that that power is obliged by treaties and international law to refrain, and to restrain its subjects, from making war against the United States. Her Majesty's government probably concur in the legal principle thus asserted. The United States understand the facts in the case of the Alabama in a different sense from that which is accepted by Earl Russell. They understand that the Alabama is a pirate ship-of-war, roving over the seas capturing, burning, sinking and destroying American vessels, without any lawful authority from the British government or from any other sovereign power, in violation of the law of nations, and contemptuously defying all judicial tribunals equally of Great Britain and all other states. The United States understand that she was purposely built for war against the United States by British subjects in a British port, and prepared there to be armed and equipped with a specified armament adapted to her construction for the very piratical career which she is now pursuing; that her armament and equipment, duly adapted to this ship-of-war and no other, were simultaneously prepared by the same British subjects in a British port, to be placed on board to complete her preparation for that career; that when she was ready and her armament and equipment were equally ready, she was clandestinely and by connivance sent by her British holders, and the armament and equipment were at the same time clandestinely sent through the same connivance by the British subjects who had prepared them, to a common port outside of British waters, and there the armament and equipment of the Alabama as a ship-of-war were completed, and she was sent forth on her work of destruction with a crew chiefly of British subjects, enlisted in and proceeding from a British port, in fraud of the laws of Great Britain and in violation of the peace and sovereignty of the United States. The United States understand that the purpose of the building, armament and equipment, and expedition of the vessel, was one single criminal intent, running equally through the building and the equipment and the expedition, and fully completed and executed when the Alabama was finally despatched, and that this intent brought the whole transaction of building, armament and equipment within the lawful jurisdiction of Great Britain, where the main features of the crime were executed. The United States understand that they gave sufficient and adequate notice to the British government, that this wrongful enterprise was begun and was being carried out to its completion; and that upon receiving this notice, her Majesty's government were bound by treaty obligations

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and by the law of nations to prevent its execution, and that if the diligence which was due had been exercised by the British government, the expedition of the Alabama would have been prevented, and the wrongful enterprise of British subjects would have been defeated. The United States confess that some effort was made by her Majesty's government, but it was put forth too late and was too soon abandoned. Upon these principles of law and these assumptions of fact, the United States do insist, and must continue to insist, that the British government is justly responsible for the damages which the peaceful, law-abiding citizens of the United States sustain by the depredations of the Alabama. I cannot, therefore, instruct you to refrain from presenting the claims which you have now in your hands of the character indicated. ¶ In saying this, however, it is not to be understood that the United States intend to act dogmatically or in a litigious spirit. They are seriously and earnestly desirous to maintain not only peace, but even amity, with Great Britain. They understand how unavoidably grievances have reciprocally arisen out of the divergence of policies which the two countries have adopted in regard to the present insurrection. This government thinks it understands, and in some measure appreciates, the difficulties and embarrassments under which her Majesty's government are laboring, resulting from the pressure of interests and combinations of British subjects calculated to compromise the neutrality which her Majesty has proclaimed, and tending even to involve the two nations in destructive maritime war. This government confesses very freely that it does not regard the present hour as one that is entirely favorable to a calm and candid examination of either the facts or the principles involved in such cases as the Alabama. It looks forward to a period when our intestine war shall have ceased, and the interests and passions which it has awakened abroad as well as at home shall have subsided and disappeared. Though indulging a confident belief in the correctness of our positions in regard to the claims in question, and others, we shall be willing at all times hereafter, as well as now, to consider the evidence and the arguments which her Majesty's government may offer, to show that they are invalid, and if whe shall not be convinced, there is no fair and just form of conventional arbitrament or reference to which we shall not be willing to submit them. Entertaining these views, the President thinks it proper for you to inform Earl Russell that you must continue to give him notice of claims of the character referred to when they arise, and that you shall propose to furnish him the evidence upon which they rest, as is customary in such cases, in order to guard against ultimate failure of justice. If he shall decline to receive the evidence, you will cause it to be duly registered and preserved, to be presented when a suitable occasion shall hereafter occur for renewing and urging prosecution of the claims. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1893.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Wiederholte Mahnung, an den Entschädigungsansprüchen für die neuerdings durch die „Alabama" am Cap der guten Hoffnung angerichteten Schäden festzuhalten. —

Department of State, Washington, October 23, 1863.

No. 1893. Vereinigte Staaten, 23. Oct. 1863.

Sir, — I hasten to acknowledge the reception of your despatch of the 1st of October, which informs me of the representation you have submitted to Earl Russell concerning the depredations of the Alabama in the waters which surround the Cape of Good Hope. ¶ Thus far we have received no advices from our consul at that place, or from any other source. ¶ The representation you have made is approved, and as the case shall be further developed you will be expected to maintain the rights of the United States in the spirit indicated in your note to his lordship. I submit for your consideration that the occasion seems to be a suitable one for representing to the earl that the toleration shown by the British authorities at the Cape of Good Hope to the Alabama, a vessel that has never touched American waters, and either burns and destroys all that she captures, or condemns them in pretended courts held by the captors themselves on the deck of their ship, is a virtual confusion of all distinctions known in the law of nations between national belligerent vessels and privateers, and, further, of all distinctions between privateers and pirates. If such is to become the practice of maritime powers, it will be difficult to perceive what the world has gained by the declaration of Paris, or could gain if that declaration should be accepted by all commercial nations. ¶ The ultimate interest of Great Britain in the reprobation of such practices is not less than the immediate interest of the United States in the question. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1894.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Wiederholung der Entschädigunsansprüche für die durch die „Alabama" angerichteten Schäden. —

Legation of the United States, London, October 23, 1863.

No. 1894. Vereinigte Staaten, 23. Oct. 1863.

My Lord, — It may be within your recollection that, in the note of the 17th of September, which I had the honor to address to you in reply to yours of the 14th of the same month, respecting the claim for the destruction of the ship Nora, and other claims of the same kind which I had been instructed to make, I expressed myself desirous to defer to your wishes that they should not be pressed on the attention of her Majesty's government, so far as to be willing to refer the question of the withdrawal of my existing instructions back for the consideration of my government. I have now the honor to inform your

lordship of the result of that application. ¶ After a careful resurvey of all the facts connected with the outfit and late proceedings of the gunboat No. 290, now known as the war steamer Alabama, I regret to report to you that the government of the United States finds itself wholly unable to abandon the position heretofore taken on that subject. ¶ The reasons for this conclusion have been so often explained in the correspondence which I have heretofore had the honor to hold with your lordship touching this case, that I shall endeavor to confine myself to a brief recapitulation. ¶ The United States understand that they are at peace with Great Britain. That peace is furthermore secured by treaties, which oblige both parties to refrain and to restrain their subjects from making war against each other. ¶ They greatly regret to be compelled to admit the fact that the vessel known first as the gunboat No. 290, and now as the Alabama, is roving over the seas, capturing, burning, sinking, and destroying American vessels, without lawful authority from any source recognized by international law, and in open defiance of all judicial tribunals established by the common consent of civilized nations as a restraint upon such a piratical mode of warfare. ¶ That this vessel was built with the intent to make war against the United States, by British subjects, in a British port, and that she was prepared there to be armed and equipped with a specific armament adapted to her construction, for the very purpose she is now pursuing, does not appear to them to admit of dispute. ¶ That this armament and equipment, adapted to this ship and no other, were simultaneously prepared by British subjects, in a British port, with the intent to complete her preparation for her career, seems equally clear. Furthermore, it is sufficiently established that, when this vessel was ready, and her armament and equipment were equally ready, she was clandestinely sent, by the contrivance of her British holders, and the armament and equipment were at the same time clandestinely sent, through the connivance of the same or other British subjects, who prepared them, to a common point outside of British waters, and there the armament and equipment of this vessel as a war ship were completed. ¶ This war ship, thus deriving all its powers to do mischief from British sources, manned by a crew of British subjects, enlisting in and proceeded from a British port, then went forth on her work to burn and destroy the property of the people of the United States, in fraud of the laws of Great Britain, and in violation of the peace and sovereignty of the United States. From the earliest to the latest day of her career she does not appear to have gained any other national character on the ocean than that which belongs to her in her origin. ¶ From a review of all these circumstances, essential to a right judgment of the question, the government of the United States understand that the purpose of the building, armament, equipment, and expedition of this vessel carried with it one single criminal intent, running equally through all the portions of this preparation, fully complete and executed when the gunboat No. 290 assumed the name of the Alabama; and that this intent brought the whole transaction, in all its several parts here recited, within the lawful jurisdiction of Great Britain, where the main portions of the crime were planned and executed. ¶ Furthermore, the United States are compelled to assume that they

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gave due and sufficient previous notice to her Majesty's government that this criminal enterprise was begun and in regular process of execution, through the agencies herein described, in one of her Majesty's ports. They cannot resist the conclusion that the government was then bound by treaty obligations, and by the law of nations, to prevent the execution of it. Had it acted with the promptness and energy required by the emergency, they cannot but feel assured that the whole scheme must have been frustrated. The United States are ready to admit that it did not act so far as to acknowledge the propriety of detaining this vessel, for the reasons assigned; but they are constrained to object that valuable time was lost in delays, and that the effort, when attempted, was too soon abandoned. They cannot consider the justice of their claim for reparation liable to be affected by any circumstances connected with the mere forms of proceeding, on the part of Great Britain, which are exclusively within her own control. ¶ Upon these principles of law, and these assumptions of fact, resting upon the evidence in the case, I am instructed to say that my government must continue to insist that Great Britain has made itself responsible for the damages which the peaceful, law-abiding citizens of the United States sustain by the depredations of the vessel called the Alabama. ¶ In repeating this conclusion, however, it is not to be understood that the United States incline to act dogmatically, or in a spirit of litigation. They desire to maintain amity as well as peace. They fully comprehend how unavoidably reciprocal grievances must spring up from the divergence in the policy of the two countries in regard to the present insurrection. They cannot but appreciate the difficulties under which her Majesty's government is laboring, from the pressure of interests and the combination of British subjects apparently bent upon compromising, by their unlawful acts, the neutrality which her Majesty has proclaimed, and desires to preserve, even to the extent of involving the two nations in the horrors of a maritime war. For these reasons I am instructed to say that they frankly confess themselves unwilling to regard the present hour as the most favorable to a calm and candid examination, by either party, of the facts or the principles involved in cases like the one now in question. Though indulging a firm conviction of the correctness of their position in regard to this and other claims, they declare themselves disposed at all times, hereafter as well as now, to consider in the fullest manner all the evidence and the arguments which her Majesty's government may incline to proffer in refutation of it; and in case of an impossibility to arrive at any common conclusion, I am directed to say that there is no fair and equitable form of conventional arbitrament or reference to which they will not be willing to submit. ¶ Entertaining these views, I crave permission to apprise your lordship that I have received directions to continue to present to your notice claims of the character heretofore advanced, whenever they arise, and to furnish the evidence on which they rest, as is customary in such cases, in order to guard against possible ultimate failure of justice from the absence of it. ¶ In accordance with these instructions, I now do myself the honor to transmit the papers accompanying the cases heretofore withheld pending the reception of later information. ¶ I pray, &c.

To Earl Russell. *Charles Francis Adams.*

No. 1895.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. d. Verein.-Staaten in London. — Entgegnung auf des Letzteren Note vom 23. October 1863. —

Foreign Office, October 26, 1863.

No. 1895. Grossbritannien, 26. Oct. 1863.

Sir, — I have had the honor to receive your letter of the 23d instant. In that letter you inform me that you are instructed to say that the government of the United States must continue to insist that Great Britain has made itself responsible for the damages which the citizens of the United States sustain by the depredations of the vessel called the Alabama. But towards the conclusion of your letter you state that the government of the United States are not disposed to act dogmatically, or in a spirit of litigation; that they desire to maintain amity as well as peace; that they fully comprehend how unavoidably reciprocal grievances must grow up from the divergence of the policy of the two countries in regard to the present insurrection. You add further that the United States frankly confess themselves unwilling to regard the present hour as the most favorable to a calm and candid examination by either party of the facts or the principles involved in cases like the one now in question. With this declaration her Majesty's government may well be content to await the time when a calm and candid examination of the facts and principles involved in the case of the Alabama may, in the opinion of the government of the United States, usefully be undertaken. ¶ In the mean time I must request you to believe that the principle contended for by her Majesty's government is not that of commissioning, equipping, and manning vessels in our ports to cruise against either of the belligerent parties—a principle which was so justly and unequivocally condemned by the President of the United States in 1793, as recorded by Mr. Jefferson in his letter to Mr. Hammond of the 15th of May of that year. But the British government must decline to be responsible for the acts of parties who fit out a seeming merchant ship, send her to a port or to waters far from the jurisdiction of British courts, and there commission, equip, and man her as a vessel-of-war. ¶ Her Majesty's government fear that if an additional principle were thus made elastic to suit a particular case, the trade of ship-building, in which our people excel, and which is to great numbers of them a source of honest livelihood, would be seriously embarrassed and impeded. I may add, that it appears strange that, notwithstanding the large and powerful naval force possessed by the government of the United States, no efficient measures have been taken by that government to capture the Alabama. ¶ On our part I must declare that to perform the duties of neutrality fairly and impartially, and at the same time to maintain the spirit of British law, and protect the lawful industry of the Queen's subjects, is the object of her Majesty's government, and they trust that the government of the United States will recognize their earnest desire to preserve, in the difficult circumstances of the present time, the relations of amity between the two nations. ¶ I have, &c. *Russell.*

To Mr. Adams.

No. 1896.

GROSSBRITANNIEN. — Artikel in der „Times" vom 16. Februar 1864 über Rechtsfragen hinsichts der von England geforderten Restitution der durch die „Alabama" gemachten Prisen. —

THE CASE OF THE ALABAMA.

To the Editor of the Times:

No. 1896. Gross-britannien, 16. Febr. 1864.

Sir: It is greatly to be regretted that there should be found politicians on both sides of the Atlantic who seem for party objects to desire nothing better than to inflame and exasperate national animosities by demands and recriminations which are neither justified by the doctrines of law nor founded in the principles of justice. It is some consolation, however, to think that, while in America this course has been resorted to by the responsible government of the country, in England it has only found favor with an irresponsible opposition. Some recent orators in both houses of Parliament have been laboring to stimulate public indignation by endeavoring to persuade us that we have been the tame and spiritless victims of unmerited ill-usage. This view of the subject is founded on peculiar notions of law which they have thought fit to assume, and in accordance with which they have undertaken to criticise the action of the English government, and to denounce the conduct of the American prize courts. ¶ I am glad to observe that the attorney general—than whom on such a subject no higher authority is to be found—has fully confirmed the opinion which I have ventured on former occasions to express as to the general rectitude and fairness of the American prize courts. The grounds on which the decision in the case of the Springbok have been attacked show that the critics of the American judges are very little conversant with the elements of the subject they have undertaken to discuss. It is assumed that a shipment whose immediate and ostensible destination is to a neutral port is necessarily and absolutely in all cases innocent. This is, no doubt, as a general rule, true, but it is equally certain that, if this destination be only a section of a voyage whose real and ultimate intention is to a belligerent port, the mere interposition of a neutral resting-place will not alter the real character of the transaction. The whole voyage will be regarded according to the reality, and not according to the appearance, and will be dealt with according to its real and ultimate, not according to its apparent and immediate, destination. This principle rests on the foundation of that which is known to jurists as the doctrine of continuous voyages. ¶ But the former American practice is equally conclusive against their present pretensions. During the course of the war between Spain and her revolted colonies in South America the ports of the United States became the grand *officina* of the rebellious privateers. The South American seas were covered with cruisers fitted out in the American ports in violation of their foreign enlistment act. The instances of adjudication on suits for the restitution of prizes taken by these privateers in the American law books are

numerous, but we may be quite sure that the recorded cases indicate a very small percentage of the captures thus effected. That being the state of things, the course adopted by the American courts and the government was this: When a prize captured by a cruiser thus unlawfully equipped was brought within the jurisdiction of the United States the prize was duly restored by legal process to its original owner. The government of the United States did not pretend to deal with the cruiser herself, (*vide* the facts and the judgment in the case of the Santissima Trinidad:) they distinctly repudiated all authority and liability in respect of captures by such vessels not brought within their jurisdiction, (*vide* „La Amistad de Rues," 5 *Wheaton's Reports.*) And I venture to challenge the American government to produce a single example in which they acknowledged any claim to compensation for prizes taken by cruisers equipped within their ports to „prey upon the commerce" of Spain, or attempted any other redress than that of the restitution *in specie* of prizes brought *infra præsidia.* The terms of the Jay and Grenville treaty between Great Britain and the United States in 1795 are, when properly understood, equally conclusive against the present pretensions of America. ¶ The material facts, if correctly stated, seem to be these: On July 28, 1863, the Alabama entered the bay of Saldanha for the purpose of repainting, and remained there till August 4; on August 5 she sailed for Table Bay, and within sight of the persons on shore, though apparently at a distance of more than three miles, captured the federal bark Sea Bride. The captain and the crew of Sea Bride were taken on board the Alabama and *put in irons*, and seem afterwards to have been landed at Cape Town. After the capture was effected it is asserted that the prize was brought within a mile and a half of the English shore in charge of a prize crew, and it appears that attempts were made to sell the prize to some speculators at Cape Town. What ultimately became of the Sea Bride does not appear upon the papers. Now, assuming the facts thus stated to be correct, and there is no intimation on the face of the papers that they are disputed, some important questions arise. ¶ And, first, ought the Alabama ever to have been allowed to enter the bay of Saldanha at all? I confess I am very strongly of opinion that she ought not. As soon as the war between the federal and confederate states broke out the English government defined the exact terms and conditions on which the ships-of-war of both nations should be admitted into our ports. In our character as a neutral nation we extend impartially to both such a limited hospitality as shall keep us clear from any participation in their hostile pursuits. To this hospitality so defined the duly commissioned vessels-of-war of both belligerents are clearly entitled so long as our regulations remain unaltered. It is equally certain, however, that we are at perfect liberty to make precisely what rules upon the subject we think fit. The principles of the rights and duties in this respect of neutral states are laid down with admirable clearness in the case of the Exchange, (7 Cranch Rep.,) one of the greatest judgments, perhaps, ever delivered in a court of law. If the Alabama is admitted into our ports it is undeniable that while she is there she is entitled, as a properly commissioned vessel-of-war, to enjoy the immunity of her flag. The legality of her origin cannot be in-

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quired into, so as to authorize the neutral state, or any one else, to exercise jurisdiction over her. Still the question remains, ought the Alabama to be admitted into our ports at all? Now, it is a sound and salutary rule of international practice, established by the Americans themselves in 1794, that vessels which have been equipped in violation of the laws of a neutral state shall be excluded from that hospitality which is extended to other belligerent cruisers, on whose origin there is no such taint. Accordingly, the cabinet of Washington compelled all the French privateers which had been illegally fitted out in America against England to leave the ports of the United States, and orders were issued to the custom-house officers to prevent their return. This course of proceeding appears equally consonant to the principles of law and the dictates of policy. The question, then, remains, Was the Alabama unlawfully equipped and manned within the jurisdiction of Great Britain? Now, setting aside the vexed question of equipment, I think there can be very little doubt on that of enlistment. The question is one which from its very nature is not and cannot become the subject of judicial determination, because a neutral government cannot exercise jurisdiction over such a vessel. It is a matter on which the executive of the neutral government must, according to the best information it can obtain, form its own judgment, and that judgment is final and conclusive on all parties. Now, I observe that in a despatch dated March 27, 1863, (Parliamentary Paper, p. 2,) Lord Russell writes: „The British government has done everything in its power to execute the law; but I admitted that the cases of the Alabama and the Oreto were a scandal and in some degree a reproach to our law.“ Now, with the greatest deference to those persons who may be of an opposite opinion, I submit that vessels of which such a statement can be properly made, and that it was properly made no one acquainted with the circumstances of their outfit and manning can honestly doubt, are not entitled to the hospitality of the country whose laws they have eluded and abused. I think that to deny to the Florida and the Alabama access to our ports would be the legitimate and dignified manner of expressing our disapproval of the fraud which has been practiced upon our neutrality. If we abstain from taking such a course, I fear we may justly lie under the imputation of having done less to vindicate our good faith than the American government consented at our instance on former occasions to do. ¶ But, assuming this position not to be well founded, and that the Alabama was rightly admitted into Saldanha bay, it remains to consider whether the capture of the Sea Bride can be justified as it affects the neutrality of Great Britain. This, I confess, appears to me some what more than doubtful. Supposing the Alabama were to anchor at Spithead for a week to repaint; suppose thence she were to sail along the coast and capture a federal vessel four miles off Deal, and afterwards were to proceed with her prize to the mouth of the Tames: the circumstances would be precisely similar to those which took place last August at the Cape. Is this permissible? I venture to say clearly not. Assume that the capture was actually effected—of which there seems little doubt—beyond the limits of the neutral jurisdiction, still within the principles of well-known English judgment this act of hostility is far too

proximate to be permitted. The law on the subject is laid down with great distinctness by Lord Stowell in the case of the Twee Gebroeders, (3 Rob. Rep., p. 165.) ¶ „Direct hostility appears not to be necessary, for whatever has immediate connexion with it is forbidden. An act of hostility is not to take its commencement on neutral ground. It is not sufficient to say it is not completed there— you are not to take any measure there that shall lead to immediate violence; *you are not to avail yourself of a station on neutral territory, making as it were a vantage ground of the neutral country,* a country which is to carry itself with perfect equality between both belligerents. Many instances have occurred in which such an irregular use of a neutral country has been warmly resented, and some during the present war; *the practice which has been tolerated in the northern states of Europe of permitting French privateers to make stations of their ports, and to sally out to capture British vessels, is of that number.*“ ¶ But, again, assuming this not to be so, and the capture is to be regarded as clear from all objection on the score of violation of neutral territory, there still arises another question from the fact that the prize was subsequently brought within the limits of our jurisdiction. Now, this having been done, the consul of the federal government had a clear right, according to the doctrine of the Santissima Trinidad and similar cases, to litigate the question of restitution on the ground that the vessel was captured by a cruiser unlawfully equipped within the English dominions. This he was entitled to do, on a claim for restoration brought either at his suit or that of the English government, and upon such a suit the character and origin of the Alabama would have been judicially investigated. It is difficult to understand why this course was not adopted, except that both the English colonial authorities and the American consulate appear, from their reciprocal arguments, to have been imperfectly versed in the legal principles applicable to the occurrence. The American consul seems to have omitted to demand that to which he was justly entitled, while he put forward all sorts of claims which were wholly untenable. On the other hand, the colonial authorities do not appear either to have received very explicit instructions or to have exercised any great caution or sagacity on the occasion. ¶ It remains to notice the case of the Tuscaloosa, which arose just about the same time in the same waters, and which, from what I perceive by your paper of this morning has more recently occurred, is likely to become a matter of some interest. This vessel, it appears from the Parliamentary Paper, was originally the federal bark Conrad captured by the Alabama; she had some guns put on board her, and was namend the Tuscaloosa. Whether she was ever legitimately commissioned as a vessel-of-war does not distinctly appear; and if she was so, the authority and the manner in which the commission was conferred are not stated. However this may be, on the 8th of August, 1863, she entered Simon's bay, where she remained seven days with her original cargo of skins and wool on board, and it is stated that her cargo was sold to merchants at Cape Town. Under these circumstances the American consul demanded her detention by the English colonial authorities on the ground that she was a prize, and that the English government „having excluded prizes from all the ports of the British

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empire, the captures necessarily revert to their real owners as soon as they enter a British port.“ It is hardly necessary to say that as a general proposition this is wholly untenable. The rule is, that questions of prize are cognizable only in the courts of the captor; and the mere fact that a prize is brought into our ports, in breach of these orders, does not give to the neutral any jurisdiction over the prize of a legitimate cruiser, whether the prize has or has not been condemned. The only remedy in such a case is to order its instant departure. But to the general rule that questions of prize are cognizable only by the courts of the captors, there are two important exceptions — one, where the prize has been taken in violation of the neutral territory; the other, where the prize has been taken on the high seas by a cruiser equipped within the neutral territory in breach of its laws. In both these cases the neutral government lawfully assumes authority over the prize in vindication of its violated neutrality. Neither the American consul nor the colonial authorities seem to have adverted to this important distinction between the rule and the exceptions. The matter was further complicated by the pretension of the Tuscaloosa to be a commissioned vessel-of-war. The colonial authorities decided that she was entitled to be so regarded, and declined in any way to interfere with the vessel. It appears from a letter of Lord Russell to Mr. Adams, dated October 29, 1863, (Parliamentary paper, p. 43,) that the foreign office was not altogether satisfied with the view taken of the matter by the authorities at the Cape, and it would seem that fresh instructions were issued, under which, in December last, the vessel was seized on her return to the Cape. The grounds of this seizure and the circumstances attending it are not stated with any precision, and the facts of the case are too little known to admit of any one venturing an opinion on the subject. Those who desire to acquaint themselves with the principles of law involved will do well to study the case of the Nereyda, (8 Wheat. Rep.,) which appears, as far as the facts are known, to be remarkably similar to that of the Tuscaloosa. The profound and masterly arguments at the bar in that case seem to exhaust every aspect of the question, and are a good deal more instructive than the somewhat timid and inconclusive judgment of the court. The question there was whether a prize which assumed to have been duly condemned and to have received a legitimate belligerent commission could, when brought into a neutral port, be seized by a neutral government and restored to her original owners on the ground that she was originally captured by a vessel unlawfully equipped within the territory of the neutral government. It is not very easy to discover from the judgment of the court whether they held the satisfactory proof of a lawful condemnation would have absolutely defeated the neutral jurisdiction; nor is it clear what view they took of the operation of the alleged commission. I confess I am disposed to think that in such a case the question of condemnation is not the most material, and that, whatever may be the case of a *bona fide* purchaser under the sentence of a prize court, at all events as against the original captors the mere sentence of condemnation would not defeat the right or dispense with the duty of the neutral government to effect restitution in such a case. The question of the commission of the Tuscaloosa is a much more serious matter. It is certainly a

strong thing to attempt to exercise jurisdiction of any kind, upon any pretext, over a commissioned vessel-of-war; and in this respect it must be confessed that it is not very easy to reconcile the course taken in the case of the Nereyda with the doctrine laid down with so much precision in that of the Exchange. It is probable, however, that the legitimacy of the commission of the Tuscaloosa is not admitted by the English authorities. In that case the matter will resolve itself simply into a suit for the restitution of a prize brought within our jurisdiction, on the allegation that she was captured by a cruiser unlawfully fitted out and manned within our dominions. Such a suit would be strictly in accordance with well-established precedents, and in its discussion the whole question of the origin and character of the Alabama and her outfit will be adjudicated upon. ¶ Before quitting these topics I should wish to say one word on the tone and temper in which it becomes us to enter on these discussions. Some people seem to consider that we do ourselves injustice if, when the Americans swagger, we do not bluster in return. I confess that it appears to me that dignity and self-respect prescribe an exactly opposite course. The American government may find some excuse for irritation and ill temper in their ill success and disappointment. We have no pretence for regarding these questions in any other spirit than that of a calm and self-possessed impartiality. I have no fear lest we should be timid enough to do more than is right because we are threatened, and I hope we shall not be petty enough to do less than is right because we are abused. The maxim of chivalry, *noblesse oblige*, applies not less to great nations than to exalted persons. England is too powerful to be afraid, and too great to fear to be thought so. What we have to do is to determine, according to the best of our judgment, the precise limits of right, and to tread with an unswerving step the path of justice and of law, alike heedless of menace and disdainful of reproach. What we have most to fear is lest we should ever find ourselves committed to defend that which is not justly defensible.

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Historicus.

Temple, February 16.

No. 1897.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Bericht einer Unterredung mit dem Brit. Min. d. Ausw., die durch neue Vorgänge mit der „Alabama" entstandenen Verwicklungen betr. —

Legation of the United States, London, February 26, 1864.

Sir, — Lord Russell was so much engaged yesterday that he could not spare me much time for the discussion of any subject. I therefore made my representations as brief as possible. ¶ The most important matter of all I brought up in connexion with your note of the 6th instant. I remarked upon the extraordinary manner in which the question of the Alabama was perpetually breeding new complications. Apropos to the question raised by the consul at

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the Mauritius as to the probable arrival there of a portion of the cargo of the Sea Bride, I took the occasion to express a hope that the British government would before long be induced to adopt some stringent measures upon the proceedings of that vessel in the ports of the British dependencies. It seemed as if the officers and people in those distant places considered themselves as having the right to apply the principles of neutral law with the utmost latitude of which they were susceptible to aid these operations. His lordship observed that the matter had been under the careful consideration of the law officers, who found the questions that arose of some novelty, as well as difficulty. They hope, however, to mature something before long — he could not at this moment say what. ¶ I next proceeded to say, that, judging from the arguments in one of the late articles of the writer who signs himself „Historicus," in the Times, and from some hints which had been reported to me by Mr. Evarts as having fallen from eminent counsel here, I had reason to believe that the propriety of having ever admitted the Alabama at all into British ports was now much questioned. It had been objected, on the other hand, that no remonstrance based upon such an idea had ever been made to the British by the American government. In respect to this I felt it my duty to observe, that, however acceptable such a step as her exclusion would have been at any time, the reason why it had not been pressed was, that by the act of consenting to receive the Alabama in Kingston, in Jamaica, after her action with the Hatteras, and permitting her to refit and supply herself at that port, we had considered the British government as having given her a positive recognition, and having assumed the responsibility for the consequences of that sanction. From that time it had never occurred to me that a persistence in a contrary line of argument could be just or proper on our part. But if I could be permitted to understand that there was any inclination to reconsider the proceeding, or that any action on the part of my government would be likely to lead the way to an opposite decision, I knew nothing that it would give them and myself more satisfaction to undertake. ¶ His lordship said that I was right in my construction of the course taken in the reception of the vessel at Kingston. It was adopted after deliberation, under the belief that she had been commissioned by the confederates. Hence there could be no occasion for any further representations. There was no change in their position on that subject. ¶ Furthermore I added, were it a fact that the British government contemplated the adoption of a more rigid rule toward the Alabama, it seemed to me much better to await the event as a spontaneous act, than by any effort at interposition to entail upon it a possible interpretation of concession to a demand. His lordship assented to this at once. All that was left me to say in addition was, that after hearing out of doors what I had done, it seemed absolutely essential to preclude any inference that might be drawn in favor of abstaining from action of the kind suggested, purely because no emergency for it had been exerted on the side of my government. ¶ Want of time prevented me from developing my views of the expediency of some movement or other before long, in order to preserve the kindly relations between the two countries. I could only turn to your despatch No. 837, of the 8th instant, and read to his lordship those paragraphs of it relating to the reci-

procity treaty. His lordship said that he had received from Lord Lyons much information on that subject. He well understood the situation of the American government, and its disinclination to disturb the treaty. He could say no more than that he regretted such a consequence, at the same time that he saw no present way of avoiding it. He alluded to the debate in the House of Commons on Tuesday evening as an evidence of what they were doing, and spoke of a consul, just returned from Richmond, who reported a great amount of indignation there because the iron-clads had been seized. Thus it was that both sides complained of their neutrality. ¶ I very hastily referred to your despatch No. 839, of the 8th February, and spoke of your satisfaction with the report made by Mr. Burlingame, of the course of Sir Frederick Bruce in China. His lordship, on his part, said that Sir Frederick had spoken very favorably of Mr. Burlingame's conciliatory spirit and effective labors. I alluded also to the provision made against the conversion of the English gunboats to the use of the rebels, by placing them under the control of the government. ¶ I then took my leave, at the same time observing that I hoped to find another time, when his lordship would be more at leisure, to renew my efforts to persuade him to the adoption of more positive measures, on the strength of which my government would be enabled completely to quiet the popular uneasiness at home. I thought this the more necessary, as the prospect grew clearer to me of an early settlement of our difficulties. His lordship was evidently incredulous, though he made little response. ¶ I have, &c.

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Charles Francis Adams.

To Mr. Seward.

No. 1898.

GROSSBRITANNIEN. — Schreiben des Captain R. Semmes, Befehlshabers der „Alabama“ an die London Times vom April 1864 [Auszug], nebst folgender Deduction der Times vom 16. Juni 1864, das Verfahren des Ersteren gegen Schiffe der Vereinigten Staaten betr. —

THE ALABAMA AND HER PRIZES.

Confederate States Steamer Alabama, On the High Seas, April, 1864.

To the Editor of the Times: ¶ Sir, — Do me the favor to publish in *The Times* the enclosed communication, which I design as a reply to numerous assaults upon me by the English press — not excepting an occasional „rumble“ from yourselves — on the subject of my destroying prizes at sea without adjudication by a prize court. The London *Evening Star* and kindred negrophilist associates have been particularly virulent and abusive. The term „pirate“ is a favorite epithet with them; but as abuse is always evidence of the weakness of the cause in which it is employed, and as this little failing may be a sort of vocabulistic necessity with them to enable them to pursue their polite calling, perhaps I ought not to quarrel with it. ¶ If in the course of my remarks I have found it necessary to review some of the acts of your government, I trust you

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will give me credit for doing this in a spirit of justice and fair play, and not with a disposition to be querulous or censorious. I have alleged no fact that will not be conceded, and if my reasoning upon the premises be sound, no harm can have been done to any one, since truth is never unjust. If, on the contrary, the reasoning be unsound, you have the probe and scalpel at hand. ¶ I am, &c.

R. Semmes.

Captain, Confederate States Navy.

„I had the honor to command the first vessel-of-war (the steamer Sumter) commissioned by the Confederate States in the present war, and, having successfully run the blockade of New Orleans and got to sea, it early became necessary for me to adopt some mode of disposing of my prizes. A blockade of the entire coasts of the Confederate States had already been declared, and the enemy was busy in collecting and arming ships to enforce it; and I presumed that in the course of a few months the blockade would be at least sufficient to keep out sail vessels, and of this class, with rare exceptions, it was probable my prizes would be. It was clear, therefore, that I should be effectually prevented from sending my prizes into the confederate ports. Up to the time of my running the blockade (June 30, 1861) I had not seen her Britannic Majesty's orders in council prohibiting the belligerents from bringing their prizes into British ports; and looking to the unequal operation of such orders, I had strong hopes that none such would be issued. I made my first prizes on the coast of Cuba, and with a view to test the disposition of Spain in this matter I sent them — seven in number — into the port of Cienfuegos. Their arrival was telegraphed to the captain general at Havana. The captain general was without instructions, the orders of neutrality of the Queen of Spain not yet having been received. The prizes were permitted to remain until these orders should arrive. The orders came, and the prizes were afterwards illegally handed over to the enemy, instead of being warned to depart. Spain, as well as France, had followed the lead of Great Britain, and in due time all the smaller commercial nations did the same. To show the objects I had in view in sending in these prizes, I quote below an extract from my letter to the governor of Cienfuegos: ¶ ‚The cargoes of several of these vessels are claimed, as appears by certificates found among the papers, as Spanish property. This fact cannot, of course, be verified, except by a judicial proceeding in the prize courts of the Confederate States. But while this fact is being determined, what is to be done with the property? I have the right to destroy the vessels, but not the cargoes, in case the latter should prove to be, as claimed, Spanish property; but how can I destroy the former and not the latter? I cannot before sentence unlade the cargoes and deliver them to the claimants, for I do not know that the claims will be sustained; and I cannot destroy the cargoes, for I do not know that the claims will not be sustained. Indeed, one of the motives which influenced me in seeking a Spanish port was the fact that these cargoes were claimed by Spanish subjects, whom I am desirous of putting to as little inconvenience as possible in the unlading and reception of their property after sentence, in case it should be restored to them.‘ ¶ It will thus be seen

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that I was not only anxious to condemn my prizes, but to put neutrals to as little inconvenience as possible. If my prizes had been received into neutral ports, and permitted to remain there until they could be adjudicated by our prize courts, sitting in our own territory, no possible inconvenience that I can perceive could have resulted to neutral nations, and the rights of every one would have been secured— the right of the captor to the full benefit of this prize, and the right of the neutral claimant to adjudication. What inconvenience to Great Britain, for example, could possibly have grown out of the fact of a captured vessel lying quietly at her dock in the port of Liverpool in charge of a ship-keeper and prize agent until she could be adjudicated; and if she should be condemned, why could she not have been sold as quietly at public auction as if she had been seized and sold under an execution for debt? It was my intention to follow the precedent set in the Cienfuegos case—of sending all my prizes into the most convenient ports for the parties concerned; as, where there were English claimants, into English ports; French claimants, into French ports, &c.; but this intention was frustrated, as has been seen, by the orders of the Queen's government — I say the Queen's government, because that government gave the cue which was followed by all the other nations. By these orders I was deprived at the same time of the right of asylum and sale of my prizes and of the power of adjudication. ¶ Why, then, do you complain of the course I pursued? Was it just to force that course upon me, and then exclaim against it in pious horror? Is this the kind of ‚fair play' upon which Englishmen pride themselves? ¶ But your neutrality, you say, compelled you to this course. Let us see how that is. What is neutrality? Impartiality. Impartiality in form or appearance merely, or impartiality in substance? When a nation is called upon in good faith to perform that most solemn act of declaring her impartiality between two belligerents, is a mere jugglery of words all that is necessary, or must she look at the practical consequences of the rule she adopts? To this query there would seem to be but one answer. The rule must not only speak in the language of justice, but it must work out the ends of justice. Otherwise it is a sham and a deceit. Let us test the orders of British neutrality by this canon. On their face nothig could be more fair. Whatever is ordained as to the one belligerent is ordained as to the other. The prizes of both belligerents are prohibited from entering British waters. A large proportion of the wealth of the federal States consisted in their commerce, and if this could be destroyed an important blow would be struck in the war. The ‚volunteer corps' of the sea—as legitimate as the ‚volunteer corps' of the land—was the most effective weapon with which to strike this blow, and accordingly, in the first days of the war, several privateers were commissioned, and others were being rapidly fitted out, when the Queen's orders appeared and knocked the whole scheme on the head. As if by magic, the privateers which had already been commissioned disappeared from the seas, and all work was suspended on those in course of preparation, and the little Sumter, afterwards assisted by two or three other small vessels, was obliged to undertake the herculean task of destroying a commerce second only to that of Great Britain, and which covered every sea. The reason of the disappearance of these private armed ships

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is obvious. They are prepared at the cost of individuals, and depend wholly upon their captures for success. If these cannot be made available the enterprise becomes abortive, and the capital invested in it is sunk; and they could not be made available by reason of the Queen's orders referred to, denying them the right of asylum in British ports, the British foreign secretary well knowing that they could not be made available in the confederate ports because of the blockade, the blockade having been proclaimed on the 18th of April, 1861, and the orders in council not having been issued until the 1st of the following June. So far as results were concerned the British government might as well have said to the Confederate States, in the words of the ‚declaration' of Paris, ‚Privateering is and remains abolished,' although the said States were not bound by the said declaration, the United States, then the federal mouthpiece, having declined to accede thereto before the war. ¶ There was no occasion for Mr. Seward to endeavor to ‚sneak' into this ‚declaration' after the war, in the hope that by becoming a party to it Great Britain would illogically hold that the Confederate States, now acknowledged as belligerents, would be bound by the act of their enemy. The British foreign secretary knew his business better than this. With the most commendable sagacity he took care of his logic and of his friend Mr. Seward at the same time, and accomplished the object of the federal government by his orders in council, without permitting its minister to humiliate himself. ¶ This was one result of the declaration of neutrality—*Anglicè* partiality—put forth by Great Britain. But the mischief did not end here. The Confederate States being compelled to restrict their operations upon the high seas to their ships-of-war, those ships were also seriously embarrassed by this declaration. Their inability to adjudicate their prizes has been already referred to. As a consequence of this inability they could make no beneficial use of them. Not only so, they were compelled in many instances to release them on ransom bond for the benefit of neutrals; that is to say, to give neutral claimants of cargoes an opportunity after the war, when the bonds should be sued upon, to vindicate their claims in a court of justice, which opportunity their own governments had denied to them during the war, by rendering it impossible for them to go before a confederate prize court. ¶ This, then, is the working of those British orders in council which, on the face of them, appear to be entirely unexceptionable. It might be said, with truth, in reply to our complaints, ‚We were obliged, under the laws of nations regulating and controlling our neutrality, to exclude your prizes from our ports; and if, by reason of your inferior naval force, and the consequent blockade of your ports, the rule operates more harshly upon you than upon the enemy, that is your misfortune, not our fault.' But the fact is there is no such excuse to offer. It was, at least, equally as open to Great Britain to admit as to exclude our prizes, as I will now proceed to show. The practice of nations has been various on this point, and it rests in the discretion of each nation to admit prizes into its ports or to exclude them as it may think fit. This seems to be the general understanding of the law on this question, although there is very respectable authority for the opinion that a nation cannot lawfully exclude the prizes of a belligerent without previous treaty stipulations

to that effect. — (*Loccenius de Jure Maritimo*, L. 2, c. 4, s. 7.) As a general rule, belligerent nations have not favored the carrying of their prizes into neutral ports, and the reasons are obvious. It is much more convenient for the prize courts that they should have the actual custody of the prize to be adjudicated. ¶ Hence belligerent nations have generally required their cruisers to bring their prizes into the home ports. Still, in cases where the contrary practice was convenient, nations have freely availed themselves of it without let or hindrance from neutrals, unless there was a treaty in the way. In former wars in which Great Britain has been concerned Leghorn and Lisbon were frequently made use of for this purpose; the prizes being condemned and sold without ever reaching the home ports at all. But taking the modern practice to be for the neutral to admit or exclude prizes at pleasure, the presumption always is, previous to the issue by the neutral of any order on the subject, in favor of the admission—this having been the more common practice. On this point see *Wheaton's Elements*, (Lawrence,) p. 498; see also 3 *Phillimore's International Law*, p. 467, sec. 363. The treaties between nations on this subject have been as various as the practice. In 1778 a treaty was entered into between France and the United States, whereby no ship of the enemy of either party was allowed to sell her prize, or discharge her cargo, or buy more provisions than immediately indispensable in the ports of the other. ¶ In 1800 a similar treaty was entered into by the same parties. ¶ In 1794 a treaty of exclusion was made between England and the United States. ¶ In 1806 a treaty was made between the same parties containing similar provisions. ¶ In 1782 a treaty was entered into between the United States and Holland, then one of the principal maritime powers, whereby the sale of prizes brought by either party into the ports of the other was legalized. ¶ In 1742 a treaty was made between Spain and Denmark authorizing the reception and sale of prizes reciprocally; and so late as 1829 a treaty was ratified between Holland and the republic of Colombia authorizing the reception of prizes into each other's ports. ¶ Now, if the treaties between Great Britain and the United States were still in existence, there is no doubt that Great Britain would be obliged under those treaties to apply the rule of exclusion to the Confederate States; but it will be remembered that a war occurred between the two contracting parties in 1812, subsequently to the formation of those treaties, which abrogated them; and the subject has not since been renewed either in the treaty of Ghent, which put an end to that war, or in any subsequent treaty. The ignoring of such a question, after it had once been made the subject of a treaty, places in a very strong light the intention of the parties to remain perfectly free to exercise their discretion for the future. Great Britain, then, has no excuse for the unjust and unneutral course she has pursued. She can neither affirm that she had no alternative under the laws of nations, nor that she was bound by any treaty obligation. ¶ One more question, which has already been incidentally noticed, remains to be disposed of. If Great Britain had permitted the entry of prizes into her ports, would this have enabled the captors to condemn them so as to give an indefeasible title to the purchaser? Without doubt. Notwithstanding Lord Stowell, in the case of the ‚Flad Oyen', (1. Rob., pp.

No. 1898. Grossbritannien. 16. Juni 1864. 139—142,) declared the practice (he was commenting on the practice of the French courts, in the heat of a French war, and every lawyer knows the *vim* with which his lordship assailed everything French) to be ,infrequent and irregular', it is now well settled that a belligerent prize court, sitting in its own country, may adjudicate a prize lying in neutral waters, provided the possession of the captor remains. And this position seems to be as unanswerable in principle as it is well settled in practice. The proceeding in a prize case is *in rem*, and to give the court jurisdiction it is only necessary that it should have possession of the prize. But this need not be actual possession by the officers of the court, as by the marshal and his bailiffs. It is sufficient if the captor, or his duly appointed agent, has possession, because his possession is that of the government under whose authority the court sits, as effectually as would be that of the marshal; and no principle is better settled than that a neutral government has no right to interfere with the captor's possession of his prize— the case only excepted of the capture having been made within the waters of the neutral territory. So that if the prize be admitted into the neutral port at all—and the argument proceeds upon that hypothesis—the captor's possession remains as firmly established as if he and his prize were in his own country. In support of this jurisdiction of the prize court I quote the following authorities: ¶ In 111 *Phillimore's International Law*, p. 482, it is said: ,An attentive review of all the cases decided in the courts of England and the North American United States during the last war (1812) leads to the conclusion that the condemnation of a capture by a regular prize court, sitting in the country of the belligerent, of a prize lying at the time of the sentence in a neutral port is irregular, but clearly valid. It appears to be the inclination of the English prize court during the present war (Russian) to limit to cases of necessity the condemnation of vessels lying in a neutral port. It is scarcely necessary to add, after what has been said as to the former French law on condemnations by judges of the belligerent in neutral ports, (that is, the judge and the prize both being in the neutral port,) that such condemnations of vessels lying in neutral ports are holden valid by the French prize courts.' Again, in the volume already quoted, p. 426, it is said: ,The courts of the North American United States allow that property may be condemned in the courts of the captor while lying in a neutral country, but still they rightly hold that it can only be so adjudicated upon while the possession of the captor remains; for if it be divested, either in fact or by operation of law, that possession is gone which can alone sustain the jurisdiction. And it is to be observed that, *a fortiori*, where the property is already in the custody of a neutral tribunal, and the title is there *sub judice*, no other foreign court can, by any adjudication of its own, rightfully take away, forestall, or defeat the jurisdiction of this neutral tribunal;' and the author quotes 7 *Wheaton's Reports*, 355. It thus appears that, unless the captor divests himself of the possession of the prize, (as by sale, without waiting for condemnation,) or his possession is divested by operation of law, (as by his bringing a prize captured within neutral waters within neutral jurisdiction,) the belligerent prize court, sitting in its own country, has ample power to adju-

dicate. ¶ There would seem, then, to be no difficulty in the way of Great Britain's revoking her unjust and unneutral orders in council and returning to a sense of justice. If individuals are bound in conscience to retract their errors when once discovered, how much more are nations bound to do so, the consequences of whose errors are so much more wide-spread? By doing justice to the Confederate States Great Britain will not be doing injustice to the federal States. If she gives an asylum in her ports to the former, she will equally give it to the latter; and if this should work an incidental advantage to the Confederate States, why should this be objected to more than the opposite rule, which has worked them so many disadvantages?"

Anlage. — [Auszug.]

A letter from Captain Semmes on the subject of maritime law cannot fail to command attention. If we are to take the statements of his enemies literally, this officer is the commander of a piratical vessel, and is therefore a pirate himself, liable to be strung up to the yard-arm of the first ship that catches him. The very idea of such a character quietly sitting down, with *Phillimore* and *Wheaton* before him, to justify his own proceedings and claim the sympathy of the English public, is not a little incongruous. It seems to show that, whether a pirate or not in a technical sense, he has more refined feelings than we commonly attribute to persons of that lawless class, and believes himself to be serving in a good cause. For ourselves, we have never regarded Captain Semmes in any such light, or supposed the term „pirate" to have been applied to him in sober earnest. A pirate is a highwayman of the seas, preying on commerce without a commission from a belligerent state, and this could never be said with truth of Captain Semmes. The charge against him was that he took upon himself to condemn and burn his prizes at sea without bringing them before a proper court of adjudication; but this practice, if it were ever so illegal, is no more piracy than it is forgery. If any journal, „negrophilist" or otherwise, has called it so, it can have been only by a figure of speech. At the same time, the right of a belligerent cruiser to destroy merchantmen on the high seas as the Alabama has done, has certainly been questioned, though somewhat vaguely, and Captain Semmes's apology for this part of his conduct cannot be considered superfluous. ¶ The sum and substance of his argument is, that he burnt the ships because he had no other means of annoying the federals, and this is the best account that he could give of the matter. The truth is, that the text-books of international law are almost silent upon the subject. They assume that it will be the interest of the captor to carry his prizes into a port of his own country, so as to dispose of them and realize their value. They hardly contemplate the case in which, all those ports being strictly blockaded, he must either forego the power of injuring his enemy's carrying trade, or take the law into his own hands. Not that even Captain Semmes would venture to claim for himself the same authority as a prize court. He does not pretend that any decision of his could divest the property in any ship or cargo, or confer a good title on a purchaser. He merely determines, at his own peril, after an inspection of the ship's papers, that she belongs to such and such parties, whether neutrals or belligerents, and acts accordingly. If he makes a mistake, his government is responsible for it; and if neutral goods should be destroyed in an enemy's vessel, the neutral merchant is entitled to compensation. Captain Semmes complains that he was compelled in many instances to release prizes on ransom bond for the benefit of neutrals interested in the cargo, thereby leaving the enemy free to employ them for commercial purposes during the rest of the war. This consideration, he tells us, was the reason why „as few of these ships as

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possible were released on bond.“ On the other hand, he takes credit to himself and his officers for every ship set on fire, inasmuch as they sacrificed their own chances of prize money to the good of the Confederate States. ¶ Before we advert to his elaborate disquisition on the usage of neutral nations with respect to the admission or exclusion of prizes, we must take exception to the principle on which the whole of it is based. „What is neutrality?“ asks Captain Semmes. „Impartiality,“ not in form only, but in substance—that is, not only actual impartiality, but such impartiality as will stand the test of „practical consequences.“ There cannot be a greater misconception of neutrality than this. To be neutral is to remain at peace while other nations are at war, and to give no assistance to either. It is essentially a negative attitude, and nothing would be more likely to lead to a practical violation of it than such attempts to dress the balance as Captain Semmes requires from us. His theory is that we should deliberately calculate the bearing of any regulation about the use of our own territory that we may see fit to make upon the interests of the two belligerents. If the one happens to be weaker, we must take care that we do not add to the inequality of force, and so adjust our conduct that the issue of the contest may be the same as if Great Britain were not in existence. Not to dwell on the hopeless impossibility of steering such a course, we utterly deny that it would be impartial, or that, if impartial, it would be neutral. To refrain from closing our own ports, because the confederates have no access to their own, would be the very height of partiality. To allow both parties to fit out naval expeditions in them, though it might be impartial, would be a *reductio ad absurdum* of neutrality. The safest rule is to think much less of the belligerents than of ourselves, and to decline all responsibility for the possible effects of a righteous and disinterested policy on the fortunes of the war. ¶ The basis, then, of Captain Semmes's reasoning being radically unsound, the superstructure can hardly be stronger. It is in vain that he accumulates authorities to show that if we had not expressly excluded the prizes of both belligerents, the presumption would have been in favor of their admission. Very likely it might, though it is a point upon which the text writers speak with hesitation; but what is beyond all question is, that we had a perfect right so to exclude them, and that we exercised it. Of course, it would have been very convenient to the Confederate States to have prize courts of their own, sitting at Charleston or Savannah upon prizes constructively in their custody, but in fact lying safely in the Mersey or the Thames. No doubt it was extremely vexatious to see the prime inducement to privateering cut away by the order in council, for no private adventurer could affort to adopt the tactics of the Alabama and her consorts. „As if by magic, the privateers which had already been commissioned disappeared from the seas;“ and, „so far as results were concerned,“ the declaration of Paris was put in force against the confederates. The inference drawn by Captain Semmes is, that being free to choose one of two alternatives, we should have chosen that which would have been least hard upon him. This reminds us of the „sympathy“ which the northerners used to demand that we should infuse into our neutrality. Had we yielded to such appeals on either side, we should by this time be playing the part of the Homeric Zeus, now giving the Trojans a lift, now inclining the scales in favor of the Greeks. Again we must protest against so absurd a view of our true position as neutrals. We do not care to discuss with Captain Semmes the question whether we were bound by any treaty obligations to do as we did; it is enough for us that we were not prohibited by any such obligations, and acted in perfect good faith. Everything that has since happened confirms us in the belief that it was far better to refuse than to concede the privilege of asylum to both of the belligerents. Other nations thought the same, and the fact of their following our example, which Captain Semmes converts into a fresh topic of accusation against us, ought to have opened his eyes to the extravagance of his last paragraph. It would have been more to the purpose if, instead of imputing unworthy motives to this

country, he had taken the opportunity of explaining the circumstances under which the Alabama and other confederate cruisers have been equipped in fraud of that neutrality which he invokes.

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No. 1899.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Die Vernichtung der „Alabama" durch den Kearsarge betr. —

Legation of the United States, London, June 21, 1864.

No. 1899. Vereinigte Staaten, 21. Juni 1864.

Sir, — You will have received before this arrives, from other sources, the gratifying intelligence of the destruction of the Alabama by the Kearsarge, which took place on last Sunday morning. Mr. Dayton did me the favor to send the news by telegraph to me a few hours after it happened, so that I was enabled to be the first to announce it to a few loyal Americans who happened to be at my house on that evening. ¶ I transmit copies of the various morning newspapers, which contain long accounts of the affair as drawn up exclusively from rebel sources. The conduct of the master of the British yacht in aiding the escape of the commander and a part of the crew will doubtless attract your attention. Thus far I have no direct information from Captain Winslow or any other source upon which I could base a representation to this government, if disposed to make one. I incline rather to collect testimony and await instructions. ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

Anlage. — THE NAVAL ACTION BETWEEN THE ALABAMA AND THE KEARSARGE.

[From the London Times of Juni 21, 1864.]

Southampton, Monday.

The English steam yacht Deerhound, belonging to Mr. John Lancaster, of Hindley Hall, Wigan, Lancashire, arrived here last night and landed Captain Semmes (commander of the late confederate steamer Alabama), thirteen officers, and twenty-six men, whom she rescued from drowning after the action off Cherbourg yesterday which resulted in the destruction of the worldrenowned Alabama. From interviews held this morning with Mr. Lancaster, with Captain Jones, (master of the Deerhound,) and with some of the Alabama's officers, and from information gleaned in other quarters, I am enabled to furnish you with some interesting particulars connected with the fight between the Alabama and the Kearsarge. ¶ The Deerhound is a yacht of 190 tons and 70 horse power, and her owner is a member of the royal yacht squadron at Cowes and of the royal Mersey yacht club. By a sowewhat singular coincidence she was built by Messrs. Laird & Son, of Birkenhead, and proof of her fleetness is furnished by the fact that she steamed home from the scene of action yesterday at the rate of thirteen knots an hour. On arriving at Cherbourg at 10 o'clock on Saturday night, by railway from Caen, Mr. Lancaster was informed by the captain of his yacht, which was lying in harbor awaiting his arrival, that it was reported that the Alabama and the Kearsarge were going out to fight each other in the morning. Mr. Lancaster, whose wife, niece, and family were also on board his yacht, at once determined to go

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out in the morning and see the combat. ¶ The Alabama left Cherbourg harbor about 10 o'clock on Sunday morning, and the Kearsarge was then several miles out to seaward, with her steam up ready for action. The French plated ship-of-war Couronne followed the Alabama out of harbor, and stopped when the vessels were a league off the coast, her object being to see that there was no violation of the law of nations by any fight taking place within the legal distance from land. The combat took place about nine miles from Cherbourg, and, as there are some slight differences (as might naturally be expected under the circumstances) in relation to the period over which it lasted, and other matters, it may be well here to reproduce from Mr. Lancaster's letter in the Times of this morning the subjoined extract from the log kept on board the Deerhound: ¶ „*Sunday*, June 10, 9 a. m. — Got up steam and proceeded out of Cherbourg harbor. 10.30. — Observed the Alabama steaming out of the harbor towards the federal steamer Kearsarge. 11.10. — The Alabama commenced firing with her starboard battery, the distance between the contending vessels being about one mile. The Kearsarge immediately replied with her starboard guns; a very sharp, spirited firing was then kept up, shot sometimes being varied by shells. In manœuvring both vessels made seven complete circles at a distance of from a quarter to half a mile. At 12 a slight intermission was observed in the Alabama's firing, the Alabama making head sail, and shaping her course for the land, distant about 9 miles. At 12.30 observed the Alabama to be disabled and in a sinking state. We immediately made towards her, and on passing the Kearsarge were requested to assist in saving the Alabama's crew. At 12.50, when within a distance of 200 yards, the Alabama sank. We then lowered our two boats, and, with the assistance of the Alabama's whale-boat and dingy, succeeded in saving about forty men, including Captain Semmes and thirteen officers. At 1 p. m. we steered for Southampton.“ ¶ One of the officers of the Alabama names the same hour, viz: 11.10, as the commencement of the action, and 12.40 as the period of its cessation, making its duration an hour and a half; while the time observed on board the Deerhound, which is most likely to be accurate, that vessel being free from the excitement and confusion necessarily existing on board the Alabama, limited the action to an hour, the last shot being fired at 12.10. The distance between the two contending vessels when the Alabama opened fire was estimated on board the Deerhound at about a mile, while the Alabama's officer tells me that she was a mile and a half away from the Kearsarge when she fired the first shot. Be this as it may, it is certain that the Alabama commenced the firing, and as it is known that her guns were pointed for a range of 2,000 yards, and that the second shot she fired, in about half a minute after the first, went right into the Kearsarge, that may be taken as the real distance between the two ships. The firing became general from both vessels at the distance of a little under a mile, and was well sustained on both sides, Mr. Lancaster's impression being that at no time during the action were they less than a quarter of a mile from each other. Seven complete circles were made in the period over which the fight lasted. It was estimated on board the Deerhound that the Alabama fired in all about 150 rounds, some single guns, and some in broadsides of three or four, and the Kearsarge about 100, the majority of which were 11-inch shells. The Alabama's were principally Blakeley's pivot guns. In the early part of the action the relative firing was about three from the Alabama to one from the Kearsarge, but as it progressed the latter gained the advantage, having apparently a much greater power of steam. She appeared to have an advantage over the Alabama of about three knots an hour, and steam was seen rushing out of her blowpipe all through the action, while the Alabama seemed to have very little steam on. ¶ At length the Alabama's rudder was disabled by one of her opponent's heavy shells, and they hoisted sails; but it was soon reported to Captain Semmes by one of his officers that his ship was sinking. With great bravery the guns were kept ported till the muzzles were actually under water, and the last shot from the doomed ship was fired as she was settling down. When

her stern was completely under water Captain Semmes gave orders for the men to save themselves as best they could, and every one jumped into the sea and swam to the boats which had put off to their rescue. Those of them who were wounded were ordered by Captain Semmes to be placed in the Alabama's boats and taken on board the Kearsarge, which was as far as possible obeyed. ¶ Captain Semmes and those above mentioned were saved in the Deerhound's boats, and when it was ascertained that the water was clear of every one that had life left, and that no more help could be rendered, the yacht steamed away for Cowes, and thence to this port. ¶ The Kearsarge, it is known, has for some time past been in hot pursuit of the Alabama, which vessel Captain Winslow was determined to follow everywhere till he overtook his enemy. Very recently she chased and came up with one of the vessels of the Chinese expeditionary force returning to England, and ran alongside with her gun pointed and crew at quarters, before she could be convinced of her mistake, for the expeditionary vessel was very like the celebrated confederate cruiser. The Kearsarge was then described as likely to prove a formidable overmatch for the Alabama, having higher steam power and rate of speed, a crew „nearly double“ that under Captain Semmes, and, unlike her sister ship the Tuscarora, carrying ten, instead of eight, very heavy 11-inch shell guns—the so-called columbiads of the American navy. The Alabama, on the contrary, is stated to have had only two heavy rifled guns and six broadside 32-pounders. The confederate, too, after her long cruise, was sorely in need of a refit. A part of her copper, it is said, was off, and her bottom was covered with long weeds. ¶ The crew of the Alabama comprised, in all, about 150 when she left Cherbourg. Of these, 10 or 12 were killed during the action, and a number were known to be drowned, the difference between these and the number brought home by the Deerhound being, it is hoped, saved by the boats of the Kearsarge, or some French pilot-boats which were in the vicinity. The French war vessel Couronne did not come out beyond three miles. The surgeon of the Alabama was an Englishman, and, as nothing has been heard of him since he went below to dress the wounds of some of the sufferers, it is feared that he went down with the ship. ¶ The wounded men on board the Deerhound were carefully attended to until her arrival here, when they were taken to the Sailors' Home, in the Canute road. Several of the men are more or less scarred, but they are all out about the town to-day, and the only noticeable case is that of a man who was wounded in the groin, and that but slightly. ¶ Captain Semmes, and his first lieutenant, Mr. J. M. Kill, are staying at Kelway's hotel, in Queen's Terrace, where the gallant commander is under the care of Dr. Ware, a medical gentleman of this town, his right hand being slightly splintered by a shell. ¶ When the men came on board the Deerhound they had nothing on but their drawers and shirts, having been stripped to fight, and one of the men, with a sailor's devotedness, insisted on seeing his captain, who was then lying in Mr. Lancaster's cabin in a very exhausted state, as he had been intrusted by Captain Semmes with the ship's papers, and to no one else would he give them up. The men were all very anxious about their captain, and were rejoiced to find that he had been saved. They appeared to be a set of first-rate fellows, and to act well together in perfect union under the most trying circumstances. ¶ The captain of the forecastle on board the Alabama, a Norwegian, says that, when he was in the water, he was hailed by a boat from the Kearsarge, „Come here, old man, and we'll save you;“ to which he replied, „Never mind me, I can keep up half an hour yet; look after some who are nearer drowning than I am.“ He then made way for the Deerhound, thanking God that he was under British colors. ¶ Throughout the action the Deerhound kept about a mile to windward of the combatants, and was enabled to witness the whole of it. The Kearsarge was burning Newcastle coals, and the Alabama Welsh coals, the difference in the smoke (the north country coal yielding so much more) enabling the movements of each ship to be distinctly traced. Mr. Lancaster is clearly of opinion that it was the Kearsarge's 11-inch shells which gave her the advantage, and that, after what he has witnessed on

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this occasion, wooden ships stand no chance whatever against shells. Both vessels fired well into each other's hull, and the yards and the masts were not much damaged. The mainmast of the Alabama had been struck by shot, and as the vessel was sinking broke off and fell into the sea, throwing some men who were in the maintop into the water. Some tremendous gaps were visible in the bulwarks of the Kearsarge, and it was believed that some of her boats were disabled. She appeared to be temporarily plated with iron chains, &c. As far as could be seen, everything appeared to be well planned and ready on board the Kearsarge for the action. It was apparent that Captain Semmes intended to fight at a long range, and the fact that the Kearsarge did not reply till the two vessels got nearer together showed that they preferred the short range, and the superior steaming power of the latter enabled this to be accomplished. It is remarkable that no attempt was made by the Kearsarge to close and board the Alabama, and when the Alabama hoisted sail and made as if for the shore, the Kearsarge moved away in another direction, as though her rudder or screw was damaged and out of control. Great pluck was shown on both sides during the action. On board the Alabama all the hammocks were let loose, and arrangements had been made for sinking her rather than that she should be captured. ¶ As far as it is known, not a relic of the Alabama is in the possession of her successful rival. When she was sinking, Captain Semmes dropped his own sword into the sea to prevent the possibility of its getting into their hands, and the gunner made a hole in one of the Alabama's boats and sank her for the same reason. ¶ Before leaving the Deerhound, Captain Semmes presented to Mr. Lancaster's son one of his officer's swords and a pistol in remembrance of the occurrence and the kind treatment he and his men had received on board the yacht. The men stated that the best practice generally on board the Alabama during the action was shown by the gunners who had been trained on board the Excellent in Portsmouth harbor. ¶ The spectacle presented during the combat is described, by those who witnessed it from the Deerhound, as magnificent, and thus the extraordinary career of the Alabama has come to a grand and appropriate termination. ¶ The presence of the Deerhound on the scene was a providential circumstance, as, in all probability, the men saved by her would otherwise have been drowned, and a lamentable addition would thus have been made to the number of lives lost on the occasion. ¶ Nothing is known here respecting the Kearsarge or her subsequent movements. She was in command of Captain John Winslow, and had about the same number of officers and crew as the Alabama. The last official American navy list describes her as 1,031 tons register, and carrying eight guns, being two guns less than the Tuscarora mounts, to which in all other respects the Kearsarge is a sister ship. The Tuscarora will be remembered as the federal ship-of-war that some two years and a half ago lay at this port watching the Nashville. Several of the Alabama's officers now here were attached to the Nashville on that occasion. ¶ The Alabama's chronometers, specie, and all the bills of ransomed vessels are saved, having been handed over to a gentleman at Cherbourg before she left that port. ¶ Mr. Mason, the confederate agent, Captain Bullock, and the Rev. Mr. Tremlett arrived by the 4 o'clock train this afternoon from London, and proceeded to Kelway's hotel to meet Captain Semmes. ¶ Captain Semmes and all the men are now placed under the care of Mr. J. Wiblin for such medical attendance as may be required.

No. 1900.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Das Verfahren des brit. Schiffs: „Deerhound" in Betreff der „Alabama." —

Legation of the United States, London, June 23, 1864.

No. 1900. Vereinigte Staaten, 23. Juni 1864.

Sir, — The popular excitement attending the action between the Alabama and the Kearsarge has been considerable. I transmit a copy of the Times of this morning, containing a report made to Mr. Mason by Captain Semmes.* It is evidently intended for this meridian. ¶ The more I reflect upon the conduct of the Deerhound the more grave do the questions to be raised with this government appear to be. I do not feel it my duty to assume the responsibility of demanding, without instructions, the surrender of the prisoners. Neither have I yet obtained directly from Captain Winslow any authentic evidence of the facts attending the conflict. I have some reason to suspect that the subject has already been under the consideration of the authorities here. ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

No. 1901.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die Rettung der Mannschaft der „Alabama" durch den „Deerhound" betr. —

Department of State, Washington, July 8, 1864.

No. 1901. Vereinigte Staaten, 8. Juli 1864.

Sir, — I have the honor to acknowledge the receipt of your despatch of the 21st of June, which relates to the destruction of the pirate ship Alabama by the Kearsarge in an engagement off Cherbourg on the 19th June last. This event has given great satisfaction to the government, and it appreciates and commends the bravery and skill displayed by Captain Winslow and the officers and crew under his command. ¶ Several incidents of the transaction seem to demand immediate attention. The first is, that this government disapproves the proceeding of Captain Winslow in paroling and discharging the pirates who fell into his hands in that brilliant naval engagement, and in order to guard against injurious inferences which might result from that error if it were overlooked, you are instructed to make the fact of this disapprobation and censure known to her Majesty's government, and to state at the same time that this government, adhering to declarations heretofore made, does not recognize the Alabama as a ship-of-war of a lawful belligerent power. ¶ Secondly, the presence and the proceedings of a British yacht, the Deerhound, at the battle, require explanation. On reading the statements which have reached this government, it seems impossible to doubt that the Deerhound went out to the place of conflict by concert

*) Ist wesentlich mit der Anlage unter vorstehender Nummer übereinstimmend.

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and arrangement with the commander of the Alabama, and with at least a conditional purpose of rendering her aid and assistance. She did effectually render such aid by rescuing the commander of the Alabama and a portion of his crew from the pursuit of the Kearsarge, and by furtively and clandestinely conveying them to Southampton, within British jurisdiction. We learn from Paris that the intervention of the Deerhound occurred after the Alabama had actually surrendered. The proceeding of the Deerhound, therefore, seems to have been directly hostile to the United States. Statements of the owner of the Deerhound are reported here, to the effect that he was requested by Captain Winslow to rescue the drowning survivors of the battle, but no official confirmation of this statement is found in the reports of Captain Winslow. Even if he did make such a request, the owner of the Deerhound subsequently abused the right of interference by secreting the rescued pirates and carrying them away beyond the pursuit of the Kearsarge. Moreover, we are informed from Paris that the Deerhound before going out received from Semmes, and that she subsequently conveyed away to England, a deposit of money and other valuables of which Semmes, in his long piratical career had despoiled numerous American merchantmen. ¶ The Deerhound is understood to belong to the royal yacht association, with certain naval privileges conferred by law, and recognized as belonging to the naval force of Great Britain. Her proceedings are therefore regarded with the more concern, since they have a semi-official character. ¶ Again, it is observed that, so far as can be discovered, the crew of the pirate, excepting two traitorous officers from the United States, were chiefly British subjects, and all of them had been enlisted for the Alabama in British ports. All of them have been periodically paid their wages, nearly two years, by other British subjects, residing and keeping an office openly in the British port of Liverpool. It is further represented upon British authority, very manisfestly hostile to the United States, that the surgeon of the Alabama who was lost in the vessel was a British subject. It is stated on like authority that Semmes, the pirate commander, has openly avowed at Southampton, as if it were to the honor and renown of the British nation, that the best gunners of the Alabama had been trained in a British governmental school of artillery. It is related on the like authority that the same Semmes has avowed, manifestly to the satisfaction of a considerable portion of the British public, that the pirate crew who escaped would continue to receive wages in England, and would remain there in his unlawful service until he should, in August next, take to the sea again in a new Alabama, understood to be forthcoming from a British port. ¶ Once more, it is stated that the wounded pirates were received at once and cared for in a national British naval hospital, in or near to Southampton. ¶ While these occurrences were happening in England, the escaped commander of the Alabama is said to have been the object of hospitalities and demonstrations from British subjects in Southampton, which could have been reasonably bestowed only upon the supposition that, in robbing or burning or sinking American merchantmen on the high seas, in all quarters of the globe, and finally in engaging the Kearsarge off the port of Cherbourg, he was acting with the implied consent and in the interest of Great Britain as an

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enemy of the United States. This government experiences much pain in reviewing these extraordinary incidents of the late naval engagement. The President earnestly desires, not only a continuance of peace, but also to preserve our long-existing friendship with Great Britain. He is therefore indisposed to complain of injuries on the part of British subjects whenever he can refrain consistently with the safety, honor, and dignity of the United States. In this spirit we are ready, as we are desirous, to learn that many of the statements to which I have referred are erroneous. But when we have made considerable allowances in that way, there yet remain very large grounds for representation on our part to her Majesty's government. ¶ I desire, however, to be understood as speaking with sincerity and frankness when I say, that this government does not for a moment believe that any of the proceedings which I have related were adopted under any orders or directions, or with any knowledge, on the part of her Britannic Majesty's government. On the contrary, I have to declare, without reservation, my belief that the proceedings herein recited of the pirate Semmes and of the yacht Deerhound, and of the British subjects who have sympathized with and unlawfully aided and abetted the pirates, are the unauthorized acts of individuals, and that those proceedings will be regretted and disapproved by her Majesty's government. ¶ The President will expect you to carefully gather information, to weigh it well, and then to make a proper representation to her Majesty's government upon the whole subject I have thus presented. The Secretary of the Navy will give special instructions to Captain Winslow to answer your inquiries. ¶ Unless the cases shall be materially modified by the result of your inquiries, you will be expected to say, in the first place, that the incidents I have related, if unexplained, seem to confirm the soundness of the opinion heretofore held and insisted upon by this government, that the Alabama is justly to be regarded as a vessel fitted out by British subjects, engaged in making unlawful war against the United States. ¶ Secondly, this government is of opinion that Semmes and his confederates having been rescued by unlawful intervention of the Deerhound, and conveyed within the jurisdiction of Great Britain, they ought to be delivered up to the United States. ¶ Thirdly, it will be your duty to remonstrate against the conduct of any British authorities or subjects who may be engaged in furnishing supplies or paying wages to the escaped pirates of the Alabama, and to ask for their conviction and punishment. ¶ Fourthly, the occasion will warrant you in asking her Majesty's government, with earnestness, do adopt such measures as shall be found necessary to prevent the preparation, equipment, and outfit of any further hostile naval expedition from British shores to make war against the United States. If, however, you find the facts established by your inquiries to differ materially from the statements thereof, herein assumed to be true, you will be at liberty to modify your representations accordingly; or if you prefer, you will report the result of your inquiries and apply to this government for further and specific instructions. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1902.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Gesandten in London. — Die Dazwischenkunft des „Deerhound" betr. —

Department of State, Washington, July 15, 1864.

No. 1902. Vereinigte Staaten, 15. Juli 1864.

Sir, — Your despatch of the 28th of June has been received. It relates to the proceedings which you have taken in regard to the interference of the royal yacht association steamer Deerhound in the battle between the Kearsarge and the pirate Alabama, and is accompanied by a copy of notes which passed between Earl Russell and yourself on that subject. These papers have been submitted to the President. ¶ The representation which you have made to Earl Russell accords, so far as it goes, with the instructions conveyed in my note of the 8th instant, and is approved. ¶ I regret to find in Earl Russell's answer what seems to me an apparent misapprehension of the case, which was very well presented by you on the part of this government. Your complaint was not, as he seems to suppose, that the Deerhound rescued the drowning pirates. Your complaint was, that the Deerhound, being a British (therefore ostensibly a neutral) vessel, interfered with a view to aid in effecting the escape of a number of persons belonging to the Alabama, who had already surrendered themselves as prisoners of war; and that the pirates rescued by that intervention were brought into the kingdom of Great Britain, and that they now are within that kingdom, in readiness to enter the same unlawful and hostile service on the first opportunity. ¶ In making that complaint, you distinctly informed Earl Russell that the Alabama had been surrendered, and was sinking, and that a portion of the crew was struggling in the waves; that Captain Winslow, who was then engaged in rescuing these drowning persons, saw the Deerhound approach, and solicited the commander of that vessel to assist in that humane duty; that he, acceding to that request, did rescue from the sea more than forty of these enemies of the United States, and then he conveyed them beyond the reach of the Kearsarge, and placed them under the protection of the neutral British flag. In fact, the Deerhound intervened to perform an office of humanity, at the request of the Kearsarge. She abused the confidence reposed in her, and directly restored to the attitude of combatants the enemies of the United States whom she had rescued. Earl Russell intimates an opinion that it was only an act of humanity on the part of the Deerhound to lift up and take Semmes and his men from the waves. The earl argues, that if those persons had not been so taken from the sea, they would in all probability have been drowned, and thus would never have been in the situation of prisoners of war. Earl Russell further observes, in that connexion, that it does not appear to him to be any part of the duty of a neutral to assist in making prisoners of men for one of the belligerents. ¶ I have to observe, upon these remarks of Earl Russell, that it was the right of Kearsarge that the pirates should drown, unless saved by humane exertions of the officers and crew of that vessel, or by their own efforts, without the aid of the Deerhound. The men were either already actually prisoners, or

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they were desperately pursued by the Kearsarge. If they had perished, the Kearsarge would have the advantage of a lawful destruction of so many enemies; if they had been recovered by the Kearsarge, with or without the aid of the Deerhound, then the voluntary surrender of those persons would have been perfected, and they would have been prisoners. In neither case would they have remained hostile confederates. ¶ The Deerhound, by taking the men from the waves, and conveying them within a foreign jurisdiction, deprived the United States of the lawful benefits of a long and costly pursuit and successful battle. ¶ I freely admit that it is no part of a neutral's duty to assist in making captives for a belligerent; but I maintain it to be equally clear, that, so far from being neutrality, it is direct hostility for a stranger to intervene and rescue men who had been cast into the ocean in battle, and then convey them away from under the conqueror's guns. ¶ Earl Russell seems to have expressed the opinions which I have thus controverted without having previously investigated the case with his customary deliberation. He promises you that he will address the owner of the Deerhound on the subject. We may, therefore, yet expect, if not a more favorable, at least a more considerate answer than that which is now before me. ¶ In the mean time, my previous instructions and the remarks which I have now made will apprise you of the views of the case which this government has adopted, so far as it has now been developed. I perceive, with regret, that Earl Russell takes no notice of the fact that the Alabama was not a vessel built, armed, manned, equipped, and fitted out by the insurgents in the waters of our own country; but that, on the contrary, she was built, manned, armed, and equipped by British subjects in a British port, and that her crew were enlisted and organized, and have until this time been constantly paid, within the jurisdiction of Great Britain. No matter how valid were the excuses of the British government for failing to prevent the original departure of the Alabama from her ports to wage war against the United States, it seems to me that now, when the commander and a portion of her crew have been rescued by the intervention of British subjects, in violation of the national neutrality, and conveyed within British jurisdiction, the retaining, harboring, and protecting them by the British government would be, not merely wrongful and injurious of itself, but an aggravation of the wrong against the United States which was perpetrated in the original construction and despatch of the hostile vessel. ¶ I perceive that, in a letter which purports to have been written by the owner of the Deerhound, he denies that he held communication with the Alabama before the battle, and denies also that he accepted a deposit of valuables from Semmes, the commander of the pirates. I shall be happy if these denials shall be confirmed. The questions which have arisen out of the transaction are sufficiently embarrassing, even when that aggravation of the case is removed. ¶ The President is not seeking for offences on the part of Great Britain; but he is charged with the duty of maintaining the belligerent rights of the United States on the high seas, as they are recognized by the law of nations, against all unlawful combinations and resistance. ¶ I sincerely trust that her Majesty's government will consider our representation in a just and candid spirit; for I feel well assured that we are

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asking from Great Britain, in this case, just what, if the situation of the parties were reversed, she would have promptly asked, and we should have freely conceded to herself. ¶ I am, &c. *William H. Seward.*

To Mr. Adams.

No. 1903.

GROSSBRITANNIEN. — Min. d. Answ. an den Ges. der Vereinigten Staaten in London. — Ablehnung weiterer Erklärungen, die Sache des „Deerhound" betr. — Nebst Bericht des Eigenthümers des letzteren über seinen Antheil an der Rettung der Mannschaft der „Alabama". —

Foreign Office, July 26, 1864.

No. 1903. Grossbritannien, 26. Juli 1864.

Sir, — With reference to my letter of the 8th instant, I have the honor to transmit to you a copy of a letter which I have received from Mr. Lancaster, containing his answer to the representations contained in your letter of the 25th ultimo, with regard to the course pursued by him in rescuing Captain Semmes and others, on the occasion of the sinking of the Alabama; and I have the honor to inform you that I do not think it necessary to take any further steps in the matter. ¶ I have, &c. *Russell.*

To Mr. Adams.

Anlage. —

Hindley Hall, Wigan, July 16, 1864.

My Lord, — On my return here on Wednesday last, after a visit to Norway, I received your lordship's note of the 27th ultimo, together with copies of a note, and its enclosures, from the United States minister at this court of her Majesty, complaining of the course pursued by me in aiding the escape of a portion of the crew of the Alabama, who, it is alleged, had surrendered themselves as prisoners of war to the United States ship Kearsarge. ¶ In dealing with this complaint, I shall not trouble your lordship with any remarks on the questions of maritime or international law which have arisen out of the circumstances connected with the sinking of the confederate ship the Alabama, but I shall confine myself to a succinct but complete narrative of those proceedings in which I was personally concerned. ¶ I am, as your lordship has been informed, the owner of the yacht Deerhound, and a member of the royal yacht squadron. On the 7th of June last, my family — that is to say, my wife, my four children and my niece —, embarked on board the yacht, and sailed from Southampton, with the view of cruising for about a fortnight around some of the channel islands, and beside the coast of France. Business engagements prevented me accompanying them, but I joined them at Gurnsey on Saturday, June 11th. On the same day we sailed for Jersey, in the neighborhood of which island we remained until the following Thursday, June 16th. ¶ On the morning of that day we left St. Helens for St. Malo, arriving there at 8 a. m. We detained the yacht in the harbor of St. Malo, and in the night slept therein. On the following morning (Friday) we left the yacht, ordering it to proceed to Cherbourg, while we had a run into the interior. Early in the day we started by rail to Lemans, and there stopped all night. Next morning (Saturday) we pushed on for Caen, and after refreshment and sight-seeing there, we proceeded to Cherbourg, at which place we arrived about 10 o'clock at night. Prior to this time I had never seen Captain Semmes, nor had I had any communication, direct or indirect,

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with any person connected with the Alabama; and it will, I think, be admitted, that at 10 o'clock on Saturday night it was too late to settle the terms of an alliance between my yacht and the confederate vessel for operations on Sunday morning. It is true the Deerhound lay in Cherbourg during Friday night and Saturday; but my captain assures me that there was no intercourse between him and Captain Semmes, or anybody acting on behalf of that confederate officer. So far from the Deerhound being, as has been alleged, the consort of the Alabama, there was no connexion whatever between the two vessels, and the officers and the crew of the one were strangers to the officers and crew of the other. ¶ Soon after we arrived on board the yacht on Saturday night, we heard the rumor that there was to be an engagement between the Alabama and the Kearsarge on the following morning, and the question came up for discussion, in our family circle, whether the Deerhound should put out to sea and take up a position where we could with safety witness something of the engagement between the two hostile ships; and as the juveniles were nearly all one way, the question was decided in the affirmative, rather against the wish of both myself and my wife. Accordingly, at 9 o'clock in the morning we steamed out of Cherbourg harbor to enjoy the summer breeze, and if possible to see the great fight. That I did not propose to succour the Alabama in any way is manifest from the fact that I took my wife and family with me to participate in my movements and share my perils, should I be exposed to any. At half-past 10 o'clock we saw the Alabama steaming out of the harbor towards the federal vessel Kearsarge, and twenty minutes afterwards the action commenced. ¶ At half-past 12 o'clock we observed the Alabama to be disabled and in a sinking condition, and as I saw that no boats were being lowered from the Kearsarge to save the crew of the sinking ship, it occurred to me that the Kearsarge also must be disabled, and that her crew must be unable to help the people of the Alabama. ¶ Under this impression I felt it my duty to make towards the Kearsarge in order to offer assistance, and when within hail of that vessel I called out and asked whether I could afford them any help, and the answer was, „No; but do what you can, for God's sake, to save them.“ ¶ We immediately pushed towards the Alabama, and when within a distance of two hundred yards she sunk. This occurred at 12.50. We then lowered our two boats, and with the assistance of the Alabama's whale-boat and dingy, succeeded in saving about fifty men, including Captain Semmes and thirteen officers. At 1 p. m. we steered for Southampton. ¶ I acknowledge, my lord, that in leaving the scene of action so quickly, I was animated with a wish to save from captivity Captain Semmes and the others whom we had rescued from drowning, but I should have done the same for the people of the Kearsarge if they had been placed in similar jeopardy. I am charged with having aided in the escape of men who „had surrendered themselves prisoners of war,“ but I did not know at the time that they had so surrendered. ¶ Whether under the circumstances they could be justly considered „prisoners of war“ is a question which I will not presume now to discuss, inasmuch as it is not necessary for my justification. At the time I rescued Captain Semmes and others from the water, I had the warrant for so doing in the request from the captain of the Kearsarge that I would render them assistance. That request was not accompanied with any request or stipulation, and therefore, having got as many of the drowning men on board as I could reach, I was not conscious of being under any obligation to consult the captain of the Kearsarge as to their disposal, and I took them as soon as possible to Southampton, in compliance with their own earnest entreaties. ¶ I trust, my lord, that this simple narrative will be sufficient to disprove the allegation of complicity or alliance between the confederate ship the Alabama and my yacht the Deerhound, and to show that in rescuing Captain Semmes and others from drowning I had the warrant of the captain of the Kearsarge, and that in taking them to Southampton I was actuated only by motives of humanity.

John Lancaster.

To **Earl Russell.**

No. 1904.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Schriftwechsel mit Earl Russell über die Verantwortlichkeit der Brit. Regierung für das Verfahren des „Deerhound." —

Legation of the United States, London, September 29, 1864.

No. 1904. Vereinigte Staaten, 29. Sept. 1864.

Sir, — I now have the honor to transmit copies of three notes which have passed between Lord Russell and myself subsequently to that sent to you with my despatch of the 8th September, embodying the substance of your instructions relating to the case of the yacht Deerhound. ¶ It would have been easy for me to expose the fallacies of his conclusions. I have thought it more prudent not to precipitate matters here by assuming responsibility which seems to my eye to be one involving difficulties as serious as any that have been elicited by the war. ¶ I have, etc.

Charles Francis Adams.

To Mr. Seward.

Anlage. —

Foreign Office, September 26, 1864.

Sir, — I have to acknowledge the receipt of your letter of the 6th of this month upon the subject of the officers and men belonging to the Alabama who were saved by the owner of the Deerhound yacht from drowning, and afterwards landed at Southampton. It is not my intention, in replying to that letter, to repeat arguments already exhausted, or to refer to observations already made. It seems to be sufficient that I should state to you the conclusions at which her Majesty's government have arrived, and which differ from those which your government have come to from the same facts. ¶ In the first place, it is undoubtedly true that the Alabama was partly fitted out in a British port. But as soon as evidence was obtained that acts had been committed with regard to that vessel in violation of a British statute, orders were sent to seize her; she, however, escaped from British waters, in a state of half equipment, under a fraudulent pretence of making a trial trip. Her equipment was afterwards completed in a foreign port, neither British nor American, and a commission from the so-styled confederate government was there delivered to Captain Semmes, her commander, himself an American citizen. ¶ Secondly, I have to state that it appears to her Majesty's government that the commander of the private British yacht, the Deerhound, in saving from drowning some of the officers and crew of the Alabama, after that vessel had sunk, performed a praiseworthy act of humanity, to which, moreover, he had been exhorted by the officer commanding the Kearsarge, to which vessel the Deerhound had, in the first instance, gone, in order to offer to the Kearsarge any assistance which, after her action with the Alabama, she might stand in need of; and it appears, further, to her Majesty's government that, under all the circumstances of the case, Mr. Lancaster was not under any obligation to deliver to the captain of the Kearsarge the officers and men whom he had rescued from the waves. ¶ But however that may be, with regard to the demand made by you by instructions from your government, that those officers and men should now be delivered up to the government of the United States, as being escaped prisoners of war, her Majesty's government would beg to observe that there is no obligation by international law which can bind the government of a neutral state to deliver up to a belligerent prisoners of war who

may have escaped from the power of such belligerent, and may have taken refuge within the territory of such neutral. Therefore, even if her Majesty's government had any power by law to comply with the above-mentioned demand, her Majesty's government could not do so without being guilty of a violation of the duties of hospitality. ¶ In point of fact, however, her Majesty's government have no lawful power to arrest and deliver up the persons in question. They have been guilty of no offence against the laws of England, and they have committed no act which could bring them within the provisions of the treaty between Great Britain and the United States for the mutual surrender of offenders, and her Majesty's government are, therefore, entirely without any legal means by which, even if they wished to do so, they could comply with your above-mentioned demand. ¶ Thirdly, with regard to the statement made to the United States government, that British authorities afford pecuniary assistance or supplies, or furnish regular payment of wages to persons forming the crew of the Alabama, for the purpose of enabling them more effectually to carry on hostile operations against the United States, I have to say that her Majesty's government have no knowledge whatever of any such circumstances, and do not believe that there is any foundation for such statements. Private individuals may very possibly have contributed to relieve the necessities of the persons in question, but with the pecuniary contributions of private individuals her Majesty's government have no power to interfere. ¶ I beg further to assure you that her Majesty's government have adopted, and will continue to adopt, to the utmost of their lawful power, such measures as may be effective to prevent the preparation, equipment, and outfit of any naval expedition from British shores to make war against the United States. ¶ The detention and seizure of the Birkenhead iron-clads, and the discussion in Parliament on that subject, suffice to show that if complete prevention in this respect has not been attained, all that the government of this free country can do to stop such expeditions has been fully performed. ¶ Lastly, in expressing the regret of her Majesty's government that they should find themselves unable to comply with any application which the government of the United States may have thought themselves entitled to make, I cannot refrain from observing that her Majesty's government have been far more successful in preventing breaches of neutrality with regard to the fitting out of cruisers to take part in the civil war in North America, than the government of the United States were in preventing the fitting out of ships-of-war to aid the South American republics in their revolt against Spain, which power then stood in the position of a central authority resisting insurrection. ¶ I have, &c.

No. 1904. Vereinigte Staaten, 29. Sept. 1864.

Russell.

To Mr. **Adams.**

No. 1905.

VEREINIGTE STAATEN von **AMERIKA.** — Staatsseeretär f. d. ausw. Ang. an den Ges. in London. — Instruction, die Vorstellungen in der Sache des „Deerhound" zu erneuern. —

Department of State, Washington, October 17, 1864.

No. 1905. Vereinigte Staaten, 17. Oct. 1864.

Sir, — I have the honor to acknowledge the receipt of your despatch of the 29th of September last, which is accompanied by a copy of Earl Russell's answer to the representation concerning the intervention of the Deerhound in the naval battle which occurred off Cherbourg between the United States ship-of-war Kearsarge and the pirate Alabama. ¶ That paper has been submitted to the President, and I am charged to inform you that after a careful considera-

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tion of the same, this government thinks itself entitled to adhere to the several positions it has heretofore assumed in regard to that painful transaction, as those positions have been made known by you to her Majesty's government. ¶ In communicating this conclusion to Earl Russell you will express to him the President's concern at our failure thus far in the efforts we have made to avert a misunderstanding between the two countries upon a point which the American people have come to regard as seriously affecting their national honor and dignity. ¶ I am, etc.

William H. Seward.

To Mr. **Adams.**

No. 1906.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Erneute Vorstellungen hinsichts der durch den „Deerhound" verletzten Neutralität. —

Legation of the United States, London, November 10, 1864.

No. 1906. Vereinigte Staaten, 10. Nov. 1864.

My Lord, — In regard to the note of the 26th of September last, which your lordship did me the honor to address me, I now ask permission to make only two observations, preliminary to communicating to you the final instructions of my government. ¶ Your lordship is pleased to remark that her Majesty's government consider the act of the commander of the Deerhound in interposing to save from drowning Captain Semmes and other officers and men of the Alabama as a praiseworthy act of humanity; and further, that any proposal to restore them to the hands of the victors in the struggle after they had reached the limits of this kingdom as a refuge, could be viewed only as involving a violation of the duties of hospitality of which that government would not be guilty. ¶ I beg leave to recall your lordship's attention to the original allegation in my note, which was to the effect that Captain Semmes and his companions, after being saved from drowning by the intervention of a British subject, did not reach the limits of this kingdom as a refugee claiming the right of hospitality, so much as in the position of a belligerent determined to make his escape from capture or death to a neutral territory useful to himself and his cause by initiating further hostile proceedings against his enemy in the very place where he claimed hospitality. I have the strongest reasons for believing that the time which has passed whilst I have had the honor to conduct this correspondence with your lordship has been spent by the enemies of the United States, British and native-born, in fitting out another vessel from this kingdom to do the same sort of piratical work which the Alabama did until she was sent to the bottom, which vessel has sailed from here to an agreed place on the ocean, where the same sort of equipment and armament which was placed on the Alabama has been placed on board of her by another British vessel sent from this kingdom for the purpose, and where were transferred Captain Semmes and his companions, the persons saved by the alleged humanity of Mr. Lancaster, for the ultimate object of

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continuing a war of destruction of life and property against the people of the United States. Whether I am correct or not in these statements, as yet founded only on information of a private character, time will not be long in establishing; should it prove to be so, your lordship will perhaps pardon me if I persist in maintaining the opinion that neither was the act of Mr. Lancaster in saving Captain Semmes from capture humane, nor is the act of her Majesty's government in protecting him to be viewed as wholly within the limits of that sort of hospitality which it would value in any other nation if practiced towards the people of Great Britain. ¶ Your lordship is pleased further to observe towards the close of your note that her Majesty's government have been far more successful in preventing breaches of neutrality with regard to the fitting out of cruisers in this war, than the government of the United States were in preventing the fitting out of ships to aid the South American republics in their revolt against Spain. ¶ Were it expedient at this late day to enter upon an examination of the relative merit of the two governments in the two very widely different stages of their condition in acquitting themselves of their obligations of neutrality under circumstances of difficulty, I am not aware that any result which might be arrived at would have an effect in materially varying the views that should be taken of the shortcomings of either. Very fortunately, I am saved the necessity of further discussion of it by pointing out to your lordship a circumstance which seems to have entirely escaped your attention. Whatever may have been the deficiencies of the United States in the instance alluded to, compensation therefore has been made to Spain, and her full and free release has been given under the sanction of her hand to a solemn treaty. Whenever her Majesty's government shall acknowledge itself prepared to perfect the parallel instance, the example may be cited against the United States, but not until then. ¶ I have now the honor to inform your lordship that, after a careful consideration of your note of the 26th of September, my government thinks itself entitled to adhere to the several positions it has heretofore assumed in regard to the painful transaction in question, as these have been made known through me to her Majesty's government. I am further directed to express to you the President's concern at the failure, thus far, of the efforts that have been made to avert a misunderstanding between the two countries upon a point which the American people have cause to regard as seriously affecting their national honour and dignity. ¶ Praying, etc.

To **Earl Russell.** *Charles Francis Adams.*

No. 1907.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Ausrüstungen von Panzer-Widderschiffen in England für die s. g. Conföderirten Staaten betr. —

No. 1907. Vereinigte Staaten, 11. Juli 1863.

Legation of the United States, London, July 11, 1863.

My Lord, — It is with unaffected regret that I perform the duty incumbent on me, as the representative of the government of the United States,

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of laying before you copies of a letter from the consul of the United States at Liverpool, and of four depositions, all intended to show a determined perseverance in the same acts of hostility at the port of Liverpool which have formed the subject of my remonstrances almost from the day I had the honor first to occupy this post. ¶ In many preceding communications I have endeavored to set forth the facts which appear to me to prove, beyond the possibility of a doubt, the establishment on the part of the insurgents in the United States of a systematic plan of warfare upon the people of the United States, carried on from the port of Liverpool, as well as in less degree from other ports in this kingdom. In this policy the persons who have been sent out and have acted as agents have received the aid and effective co-operation of numbers of her Majesty's subjects. The results of this conduct have been felt in the despatch of numbers of steam vessels laden with arms and munitions of war of every description, together with other supplies, well adapted to procrastinate the struggle, with a purpose of breaking a blockade legitimately established and fully recognized by her Majesty in the proclamation issued by her forbidding all such acts. ¶ It is needless to point out to your lordship how exclusively this business has been carried on by British subjects in British vessels, and how much the burden of war has been increased by the necessity of maintaining a corresponding naval force on the ocean in order to suppress it. Nor yet will I enlarge upon the use to which the British islands of Bermuda and New Providence have been put by British subjects, as convenient points for the storing of all these supplies, to the end that they may be more easily despatched to their illegal destination. ¶ But, not satisfied with the aid thus obtained, the next step of the agents alluded to has been to enlist the aid and co-operation of British subjects in constructing for their use steam vessels expressly adapted to the object of carrying on war against the commerce of the people of the United States. The extent to which this has been actually procured has been made visible to your lordship in the various remonstrances heretofore presented by myself to your attention, unhappily too little heeded to secure prevention, and still more by the fact that for all the vessels now on the ocean engaged in the work of depredation on the commerce of the United States, British subjects must be held responsible in regard to their construction, equipment, manning, and outfit. ¶ Furthermore, it appears that the aforesaid agents, under express instructions from the so-called authorities of the insurgents, who soon fell short in the pecuniary means to conduct these extreme warlike operations, have solicited the assistance of her Majesty's subjects in this kingdom in advancing to them the funds to be appropriated to these objects. The purpose of this application, to carry on the war with the people of the United States with the means thus raised, was distinctly declared. To that end a loan of three millions of pounds sterling was proposed. That negotiation was entered into, and the means have actually been obtained in a great measure from the contributions of her Majesty's subjects. ¶ Thus it is manifest that all of those things denominated the sinews of war, to wit, men and money, ships, arms, gunpowder, and supplies, have been continually furnished by her Majesty's subjects almost from the beginning of the contest. A war has thus been practically conducted by a portion

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of her people against a government with which her Majesty is under the most solemn of all national engagements to preserve a lasting and durable peace. ¶ The government of the United States has in the mean time tried not to be wanting in performing the obligations incumbent upon it as a friend of Great Britain. In every particular in which it has been called upon in a suitable manner it has labored promptly to meet and satisfy every just cause of complaint. So far as possible, consistently with the difficulties in which it has been placed, it has assiduously striven to cultivate the most friendly relations. It has been, therefore, with the greatest regret that it has been compelled to feel itself the innocent object of a degree of active malevolence from a portion of her Majesty's subjects, which has largely contributed to aggravate the severity of its trials. The fact that the aid extended to this rebellion has had its source almost exclusively from her Majesty's subjects is made too notorious by the events of the struggle to need to be further enlarged upon. In making this representation I do not intend to be understood as implying the smallest disposition on the part of her Majesty's government in any way to sanction or even to tolerate the proceedings complained of. On the contrary, I cheerfully renew my conviction that they condemn them as practical infringements of international obligations, which it is their desire to prevent with all the means under their control. Fruitless as have been the greater part of remonstrances which I have had the honor to make, I am well aware that the causes assigned for it do not relate to the want of will so much as to the absence of power in the existing laws to reach a remedy. But admitting this to be the case, if an injury be inflicted upon an innocent friendly nation, it surely cannot be a satisfactory reply to its complaints to say that the government having the will is not also clothed with the necessary powers to make reparation for the past and effective prevention for the future. ¶ Having thus acquitted myself of the painful duty of recapitulating the points I am instructed by my government to present, I now have the honor to solicit your attention to the evidence of the last and gravest act of international hostility yet committed. It is the construction and equipment of a steam vessel-of-war, of the most formidable kind now known, in the port of Liverpool. All the appliances of British skill to the arts of destruction appear to have been resorted to for the purpose of doing injury to the people of the United States. The very construction of such a vessel, in a country itself in a state of profound peace, without any explanation of the object to which it is to be applied, is calculated to excite uneasiness on the part of those involved in a contest where only it could be expected to be made of use. But when it further appears that it is constructed by parties who have been already proved to have furnished one vessel-of-war to the insurgents in America, and who are now shown to be acting in co-operation with their well-known agents on the spot in the preparation of that now in question, it is not unnatural that such proceedings should be regarded by the government and people of the United States with the greatest alarm, as virtually tantamount to a participation in the war by the people of Great Britain to a degree which, if not seasonably prevented, cannot fail to endanger the peace and welfare of both countries. I trust I need not assure your lordship how deeply concerned is the

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government which I have the honor to represent in the view of any such possibility, and how earnestly it hopes that her Majesty's government having the will may find itself likewise vested with the needful power to guard against any such occurrence.

Charles Francis Adams.

To **Earl Russell.**

No. 1908.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Antwort auf des Letzteren Schreiben vom 11. Juli 1863. —

Foreign Office, July 13, 1863.

No. 1908. Grossbritannien, 13. Juli 1863.

Sir, — I have the honor to acknowledge the receipt of your letter of the 11th instant, and I have to state to you that I have lost no time in communicating with the proper departments of her Majesty's government relative to the steam vessel-of-war which is stated to be in process of construction at Liverpool, in order that such steps may be taken in the matter as can be legally and properly adopted. ¶ I have the honor, &c.

Russell.

To Mr. **Adams.**

No. 1909.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die Ausrüstung von Widderschiffen in England für die s. g. Conföderirten Staaten betr. —

Department of State, Washington, July 29, 1863.

No. 1909. Vereinigte Staaten, 29. Juli 1863.

Sir, — The remonstrance you have presented to Earl Russell in regard to the preparation of the new steam rams is approved. It is with pleasure that I find you have thus anticipated, and have executed in so effective a manner, the chief part of the instructions contained in my despatch addressed to you on the 11th instant, and numbered 651. Nor is it less gratifying that you have expressed yourself in the very spirit of that instruction. ¶ No one can absolutely foresee the vicissitudes of any war, especially if it be a civil conflict. Yet statesmen and governments must deal with events as they occur, and allow them the significance they seem to wear. I think, therefore, that you will do well to inform Earl Russell that, in the opinion of the President, the recent military and naval operations justify an augmented confidence that the insurrection, if it do not receive new and extensive foreign aid, must fail. Should it receive such aid, and thus renew its vigor, then the war, hitherto a civil war, will become a foreign and aggressive invasion. We are sure that her Majesty's government has no purpose or desire that the conflict shall take that form by means to be derived from Great Britain, because it would be unjust in itself, and perhaps not less injurious to that country than to the United States. Moreover, the law of

nations is made up of the principles which are settled in the conflicts of states. What is done and tolerated in this conflict is likely to be accepted as a standard for determining what may be done and tolerated in civil wars in other countries. In connexion with this subject, I send you a copy of an instruction of this date, which has been sent to Mr. Dayton. You will make its contents known to Earl Russell. ¶ I am, &c.

No. 1909. Vereinigte Staaten, 29. Juli 1863.

William H. Seward.

To Mr. **Adams.**

No. 1910.

VEREINIGTE STAATEN von **AMERIKA.** — Consul in Liverpool (Thomas H. Dudley). — Officielle Deponirung von Thatsachen hinsichts der Ausrüstung von Widderschiffen für die s. g. Conföderirten Staaten in Liverpool u. a. Orten. —

No. 1910. Vereinigte Staaten, 7. Juli 1863.

I, Thomas Haines Dudley, esq., of No. 3 Wellesley Terrace, Prince's park, Liverpool, in the county of Lancaster, do solemnly, sincerely, and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare as follows: ¶ 1. I am the consul of the United States of America for the port of Liverpool and its dependencies. ¶ 2. I say there is now, and for some time past has been, a war carried on between the government and people of the United States of America and certain persons who have rebelled against such government, and pretended to set up and assume to exercise the powers of government, styling themselves the Confederate States. ¶ 3. I further say that, to the best of my knowledge, information, and belief, no leave or license has been had or obtained from or of her Majesty the Queen, under her sign manual, or any order in council, or any proclamation of her said Majesty, or otherwise, or at all authorizing any person within any part of the United Kingdom, to equip, furnish, fit out, or arm ships or vessels, with intent or in order that such ship or vessel shall be employed in the service of the so-called Confederate States to cruise or commit hostilities against the government and people of the said United States of America, and that her Majesty is not now at war with the said United States. ¶ 4. I say there have been built in this port for the government of the so-called Confederate States two vessels-of-war. One of them named the Oreto, now called the Florida, was built by Messrs. W. C. Miller & Sons, of Liverpool, and another, the Alabama, by Messrs. Laird & Co.; and they have been employed by the said so-called Confederate States against the government and people of the United States of America in the war that is now going on; and armaments and war crews for both the said vessels went out in them, or were sent out from England to meet the ships abroad, and were then placed on board of them. On the 4th of the present month of July another vessel built by the said Messrs. Laird & Co., and intended for an iron-clad steam ram, and, as this deponent verily believes, built and intended for a vessel-of-war, was launched by them from their ship-building yard at Birkenhead, and such vessel is now at Birkenhead, in the United Kingdom of Great Britain and Ireland. ¶ 5. I say that I have read the affidavits of George Temple Chapman, sworn on the 29th day of June last, of Clarence Randolph Yonge, sworn on the 6th day of April last, and of William Hayden Russell and Joseph Ellis, sworn the 7th day of July instant, and I say that from the facts there spoken to, and from the facts and circumstances aforesaid, I verily believe and say that the said vessel above mentioned is being equipped, armed, and fitted out with intent and in order that the said vessel shall be employed in the service of the said

No. 1910. Vereinigte Staaten, 7. Juli 1863.

persons setting up to exercise the power of government, and called the Confederate States of America, and with intent to cruise and commit hostilities against the government and citizens of the United States of America.

Thomas H. Dudley.

Affirmed before me, at the custom-house, Liverpool, in the county of Lancaster, the 7th day of July, 1863.

S. Price Edwards,
Collector.

No. 1911.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Fernere Mittheilungen, die von Laird & Co. gebauten Widderschiffe betr. —

Legation of the United States, London, September 3, 1863.

No. 1911. Vereinigte Staaten, 3. Sept. 1863.

Sir, — The only subject of interest this week has been the condition of Mr. Laird's iron-clad vessels. The second has been launched, whilst the first is reported to be so far prepared for departure as to bring the question of stopping her to a point calling for prompt decision. Thus far the government has made no sign. The Union and Emancipation Society have presented an earnest memorial on the subject, which has opened the way to some controversial writing in the newspapers. I have reason to believe that the law officers of the crown are wavering in their counsel on the point of evidence of intent. Some little dust has been thrown in their eyes by the pretence of other destination than the real one. It is utterly impossible to form any opinion what the issue of this hesitation will be. ¶ I have for some time back leaned to the belief that the vessel would be stopped. But, as it seems so doubtful, I concluded the wisest course would be to put in one more remonstrance. Accordingly I have taken advantage of some depositions, of no great additional weight, furnished to me by Mr. Dudley, to present another note, a copy of which is herewith transmitted. ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

No. 1912.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Antwort auf vier vorangehende Schreiben des Letzteren, die zu Birkenhead gebauten Panzerschiffe betr. —

Foreign Office, September 1, 1863.

No. 1912. Grossbritannien, 1. Sept. 1863.

Sir, — You have already been informed that the depositions enclosed in your letters of the 11th, 16th and 25th of July, and 14th ultimo, relative to the iron-clad vessels in course of construction at Messrs. Laird's yard at Birkenhead, had been forwarded to the proper department of her Majesty's government, in order that such steps might be adopted as could legally and properly be

taken, and I have now the honor to communicate to you the result of the inquiries which have been instituted. ¶ In the first place, her Majesty's government are advised that the information contained in the depositions is in a great measure mere hearsay evidence, and generally that it is not such as to show the intent or purpose necessary to make the building or fitting out of these vessels illegal under the foreign enlistment act. ¶ Secondly, it has been stated to her Majesty's government, at one time, that these vessels have been built for Frenchmen, and at another that they belonged to the viceroy of Egypt, and that they were not intended for the so-called Confederate States. It is true, that in your letter of the 25th of July you maintain that this statement as regards French ownership is a pretence, but the inquiries set on foot by her Majesty's government have failed to show that it is without foundation. Whatever suspicion may be entertained by the United States consul at Liverpool as to the ultimate destination of these vessels, the fact remains that Mr. Bravay, a French merchant residing at Paris, who is represented to be the person upon whose orders these ships have been built, has personally appeared and has acted in that character at Liverpool. There is no legal evidence against Mr. Bravay's claim, nor anything to affect him with any illegal act or purpose, and the responsible agent of the customs at Liverpool affirms his belief that the vessels have not been built for the confederates. ¶ Under these circumstances, and having regard to the entire insufficiency of the depositions to prove any infraction of the law, her Majesty's government are advised that they cannot interfere in any way with these vessels. ¶ I can only assure you that a careful watch shall continue to be maintained over them, and that if any act or proceeding contrary to the statute can be shown by trustworthy evidence to have taken place, or if any trustworthy person will furnish her Majesty's government with such declaration as may suffice to justify the detention of the vessels till further inquiry can be made, I will apply to the treasury to prevent the departure of these vessels till such further inquiry can be made. ¶ But I am sure you will be disposed, in justice to her Majesty's government, to admit that, in the absence of all evidence upon mere hearsay, surmise, conversation and conjecture, her Majesty's government could not properly direct a prosecution or action under the foreign enlistment act. A court of justice would never condemn in the absence of evidence, and the government would be justly blamed for acting in defiance of the principles of law and justice long recognized and established in this country. ¶ I feel the more convinced that such will be your opinion, as Mr. Seward, in answering a note of Lord Lyons respecting a supposed plan of issuing letters of marque in behalf of the Japanese government, says: „Prosecutions, however, cannot, it is presumed, be set on foot without affidavits of credible witnesses, as in other cases of imputed misdemeanors and crimes.“ ¶ Such are, in fact, the principles of American as well as of British law. ¶ I have, &c.

Russell.

To Mr. Adams.

No. 1913.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Vorstellungen, die für die Insurgenten gebauten Panzer- (Widder-) Schiffe betr. —

Legation of the United States, London, September 3, 1863.

No. 1913. Vereinigte Staaten, 3. Sept. 1863.

My Lord, — I have the honor to transmit copies of further depositions relating to the launching and other preparation of the second of the two vessels-of-war from the yard of Messrs. Laird, at Birkenhead, concerning which it has already been my disagreeable duty to make most serious representations to her Majesty's government. ¶ I believe there is not any reasonable ground for doubt that these vessels, if permitted to leave the port of Liverpool, will be at once devoted to the object of carrying on war against the United States of America. I have taken the necessary measures, in the proper quarters, to ascertain the truth of the respective statements current here, that they are intended for the use of the government of France or for the pacha of Egypt, and have found both without foundation. At this moment neither of those powers appears to have occasion to use concealment or equivocation in regard to its intentions, had it any in obtaining such ships. In the notes which I had the honor to address to your lordship on the 11th of July and 14th of August, I believe I stated the importance attached by my government to the decision involved in this case with sufficient distinctness. Since that date I have had the opportunity to receive from the United States a full approbation of its contents. At the same time, I feel it my painful duty to make known to your lordship that, in some respects, it has fallen short in expressing the earnestness with which I have been in the interval directed to describe the grave nature of the situation in which both countries must be placed in the event of an act of aggression committed against the government and people of the United States by either of these formidable vessels. ¶ I pray, &c.

Charles Francis Adams.

To Earl Russell.

No. 1914.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Erklärung, die in England gebauten Panzerschiffe betr. —

[Extract.]

Department of State, Washington, September 5, 1863.

No. 1914. Vereinigte Staaten, 5. Sept. 1863.

Sir, — I have bestowed the most thoughtful consideration upon your suggestions concerning the importance of avoiding collisions with Great Britain. Your observations concerning the importance of more effective measures for arresting the depredations of the piratical vessels seem so sagacious, that I have recommended them for the earnest consideration of the Secretary of the Navy.

No. 1914. Vereinigte Staaten, 5. Sept. 1863.

¶ At the same time, you will excuse me for stating the difficulties of enduring, without a resort to extreme measures of resistance, the new invasion which is threatened from the ports of Great Britain. The navy understand that, although the capacities of the department have been taxed to the utmost for defensive preparations and maintaining the blockade, they neither have now, nor can seasonably have, vessels that can be spared from the siege of Charleston, adequate to resist the formidable rams which, virtually with the consent of the British Parliament, are within a few weeks to come forth against us from Laird's shipyard. The new vessels which the Lairds are preparing must, therefore, be expected to enter Portland, Boston, New York, or, if they prefer, must attempt to break the blockade at Charleston, or to ascend the Mississippi to New Orleans. ¶ Can the British government suppose for a moment that such an assault as is thus meditated can be made upon us by British-built, armed, and manned vessels, without at once arousing the whole nation, and making a retaliatory war inevitable? Whatever view may be taken of the fortunes of the insurrection in Europe, it is deemed clear in this country that the factious spirit which gave it birth is rapidly declining, and the sentiment of nationality is developing itself anew, with an energy never before known. The nation, after two years of experience of war, has overcome the sense of fear, while its temper is highly excited. It believes that, though found unprepared, there are no limits to its ultimate ability for self-defence. It has a press and a Congress as free and as bold as the press and the Parliament of Great Britain. You have only to listen to the political debates in any part of the country, to learn that the United States would accept an unprovoked foreign war now with more unanimity and cheerfulness than at any former period. I write this with all the earnestness of conviction, and with all the concern which one must feel, who believes that any foreign war must be only inferior in the dangers it brings, to the domestic war which so many, differing from me, have thought endangered the very existence of my country. I am sure that British statesmen must know that a war between their country and the United States is unnecessary, and that it could bring no resulting benefits to Great Britain. For the interest of both countries and of civilization, I hope they will not let a blow fall from under their hands that will render peace impossible. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1915.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Verein.-Staaten in London. — Kurze Notiz, die p. p. Panzerschiffe betr. —

Foreign Office, September 8, 1863.

No. 1915. Gross-britannien, 8. Sept. 1863.

Lord Russell presents his compliments to Mr. Adams, and has the honor to inform him that instructions have been issued which will prevent the departure of the two iron-clad vessels from Liverpool.

No. 1916.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Verein.-Staaten in London. — Vollständige Aufklärung über die Laird'schen Panzerschiffe nebst Betrachtungen über die seerechtlichen Bestimmungen der beiderseitigen Staaten. —

Foreign Office, September 11, 1863.

No. 1916. Gross-britannien, 11. Sept. 1863.

Sir, — I have received your letter of the 5th instant, and have read it with great regret. ¶ It has been the aim of the government of Great Britain to maintain a strict neutrality between the parties who for two years have carried on a civil war of unusual extent and loss of life on the continent of North America. ¶ Her Majesty's government have, for the most part, succeeded in this impartial course. If they have been unable to prevent some violations of neutrality on the part of the Queen's subjects, the cause has been that Great Britain is a country which is governed by definite laws, and is not subject to arbitrary will. But law, as you are well aware, is enforced here, as in the United States, by independent courts of justice, which will not admit assertion for proof, nor conjecture for certainty. ¶ In the United States, as in England, questions of this nature have been discussed by judges of great legal ability, whose learning and impartiality have given weight and authority to their decisions in every part of the civilized world. ¶ Her Majesty's government feel confident that the President of the United States will be disposed rather to resort to those great expositors of international law, and to be guided rather by a careful examination of the course of her Majesty's government, than to yield to the hasty conclusions and prejudicial imputations of public clamor. ¶ For instance, in the case still pending of the iron-clad steam-rams at Birkenhead, Mr. Seward, with his knowledge and perspicuity of judgment, cannot fail to acknowledge that it was necessary to show, not only that these vessels were built and equipped for purposes of war, but also that they were intended for the so-called Confederate States. ¶ With a view to complete the evidence on this head, it was material to prove, that the iron-clads were not intended for the French government, or for the Pacha of Egypt. With respect to the French government, her Majesty's government have received, upon inquiry, assurances, through Earl Cowley and the Marquis of Cadore, that the French government have nothing to do with the Birkenhead iron-clads. ¶ In respect to the Egyptian government, it was only on the 5th instant that her Majesty's government received a despatch from Mr. Colquhoun, her Majesty's consul general in Egypt, which is conclusive on this subject. ¶ Mr. Colquhoun reported on the 28th August, that Mr. Bravay, a French subject, and a member of the French Chamber of Deputies, had stated to Ismail Pacha, very lately, that the orders for the two iron-clads were given when said Pacha was last in Paris. Mr. Bravay seems to have urged Ismail Pacha to fulfil the verbal contract of his predecessor, and to purchase these vessels, for which he, Mr. Bravay, had paid a large sum on account. ¶ But Ismail Pacha, Mr. Colquhoun adds, refused to purchase these vessels. ¶ From this example, and

that of the vessels built for the Emperor of China, whose name was alleged all over the United States to be a mere sham to cover the real destination of the vessels, the President will gather how necessary it is to be dispassionate and careful in inquiries and statements upon subjects involving such great interests, and affecting the good faith and the character of a power so honorable as Great Britain. ¶ These matters will, no doubt, be duly and dispassionately considered by the government at Washington, however they may have been nnderstood in London. ¶ I deem it right, however, to observe that the question at issue between yourself and her Majesty's government relates to two separate and distinct matters, the general international duties of neutrality, and the municipal law of the United Kingdom. With regard to the general duties of a neutral, according to international law, the true doctrine has been laid down repeatedly by Presidents and judges of eminence of the United States, and that doctrine is, that a neutral may sell to either or both of two belligerent parties any implements or munitions of war which such belligerent may wish to purchase from the subjects of the neutral; and it is difficult to find a reason why a ship that is to be used for warlike purposes is more an instrument or implement of war than cannon, muskets, swords, bayonets, gunpowder, and projectiles to be fired from cannon and muskets. A ship or a musket may be sold to one belligerent or the other, and only ceases to be neutral when the ship is owned, manned and employed in war, and the musket is held by a soldier, and used for the purpose of killing his enemy. In fact, the ship can never be expected to decide a war or a campaign, whereas the other things above mentioned may, by equipping a large army, enable the belligerent which requires them to obtain decisive advantages in the war. ¶ Then, again, as regards the employment of the subjects of a neutral by either belligerent: it is obvious that even if the whole crew of a ship-of-war were composed of the subjects of a neutral, that crew should have less influence on the results of the war than whole regiments and brigades employed on land, and composed of the subjects of a neutral state. ¶ Now, admitting that the confederates have been able to employ some vessels built in the United Kingdom, in spite of the efforts of her Majesty's government to prevent it; and admitting also, that which is believed to be the fact, that the confederates have derived a limited supply of arms and ammunition from the United Kingdom, notwithstanding the federal blockade of their ports; yet, on the other hand, it is perfectly notorious that the federal government have purchased in and obtained from the United Kingdom a far greater quantity of arms and warlike stores. ¶ As far, then, as regards the drawing warlike supplies from the United Kingdom, the federal government has done in that respect a great deal more than the confederates have done; and if, in contradiction of the doctrine repeatedly and deliberately promulgated by Presidents of the United States, the furnishing of such supplies by the subjects of a neutral to one belligerent is, as you would seem to represent it, an act of war against the other belligerent, the United Kingdom of Great Britain must be deemed to be at war with both the contending parties in North America, but to have given greater assistance in the war to the federals than to the confederates. ¶ But if the question with regard to men is to be raised, the difference is far

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greater. Even admitted, as asserted by you, though her Majesty's government have no knowledge of the fact, that a small number of British subjects have, in defiance of her Majesty's proclamation, engaged in the service, either by sea or land, of the confederates, it might be asked whether no British seamen are now employed in the naval service of the United States government? At all events, it is well known that large numbers of natural-born subjects of her Majesty have fought and fallen in the ranks of the federal armies, and it is confidently asserted, though her Majesty's government have no proof of the fact, that agents of the federal government are employed within the United Kingdom to engage subjects of her Majesty to emigrate to the United States with a view of engaging when there in the military service of the federal government. ¶ Her Majesty's government would fain hope that such reports are unfounded, because such a proceeding would not only be a departure from international comity, inasmuch as it would be tempting British subjects to act in violation of her Majesty's proclamation, but it would also be diametrically at variance with the doctrine laid down by the President of the United States, upon a similar matter in 1855, during the war between Great Britain and Russia. ¶ Upon the second branch of this subject, namely, the question how far her Majesty's government have enforced the municipal law of the United Kingdom commonly called the „foreign enlistment act," her Majesty's government can only repeat that they have taken every step to enforce that law, which by legal authority they have been advised to be within their competency, and her Majesty's government will, from a due regard to their own good faith, and to the national dignity, continue, without regard to any other considerations, to pursue the same course. ¶ Her Majesty's government forbear from making any remarks upon the passage which is quoted by you from some confederate newspaper, the editor of which tries to show what damage the Warrior could inflict upon the seaboard of the federal States. Such remarks have, happily, no bearing upon the present state of things, and may be dismissed without comment. ¶ Her Majesty's government, in conclusion, can only hope that the government at Washington may take a calmer and more dispassionate view of these matters than seems to be inferred from your note; but, at all events, her Majesty's government can, with perfect sincerity, assure you that it is their earnest desire faithfully to perform the duties of neutrality in the unhappy conflict which now devastates so large a portion of the States of North America, and that so far from being animated by any feelings of hostility towards either of the contending parties, they would deem it fortunate and honorable to Great Britain if any opportunity should occur which could offer to her Majesty's government the slightest chance of being in any way useful in promoting the establishment of peace. ¶ I have to add that instructions have been issued for preventing the departure of the iron-clad vessels in question from Liverpool until satisfactory evidence can be given as to their destination, or, at all events, until the inquiries which are now being prosecuted with a view to obtain such evidence shall have been brought to conclusion. ¶ I have, &c.

Russell.

To Mr. Adams.

No. 1917.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Die Anwendung des Seerechts auf die Neutralen betreffend. —

Legation of the United States, London, September 16, 1863.

No. 1917. Gross-britannien, 16. Sept. 1863.

My Lord, — I have the honor to acknowledge the receipt on the 14th of your note, dated on the 11th, in reply to mine of the 5th of the current month. ¶ Your lordship remarks that you had read my letter with great regret. On my part, I am very sure that it could not exceed the regret with which I wrote it. ¶ You are pleased to observe that her Majesty's government hopes my government may take a calmer and more dispassionate view of the matters involved in this discussion than seems to be inferred from my note. If in that note I should have unfortunately led her Majesty's government to any inference of the kind, I can only assure your lordship that the fault must be exclusively mine. At the same time I feel it my duty not to disguise from you the very grave sense it entertains of the danger that her Majesty's kingdom may be freely used by the enemies of the United States, in conjunction with numerous ill-disposed subjects of her own, to carry on a war against them in manner and spirit wholly at variance with the rules of neutrality, which her Majesty's government has prescribed for itself in the present contest, as well as with the stronger obligations of amity and good will imposed by solemn treaties long since entered into between the parties. ¶ Your lordship appears disposed to throw aside the extract made in my note from an insurgent publication as „happily having no bearing upon the present state of things." That publication was predicated upon the expectation raised by the report of the case of the Alexandra, that no further obstructions to the full execution of the policy therein indicated would be made in the ports of her Majesty's kingdom. Coming, as it did, in corroboration of secret information derived from other sources, I certainly felt as if it was incumbent upon me to lay before you a view of the consequences not unlikely to result from the adoptation of the conclusions announced to me in your note of the 1st, which fully justified that expectation. If her Majesty's government have not the power to prevent the harbors and towns of a friendly nation from being destroyed by vessels built by British subjects, and equipped, manned, and despatched from her harbors with the intention to work that immense mischief, then is the neutrality of the kingdom nothing more than a shadow, under which war may be conducted with more effect than if undisguised, and all international obligations, whether implied or expressed, not worth the paper on which they are written. ¶ It is no part of my intention to renew with your lordship the discussion of the extent to which a belligerent may draw resources from the territories of a neutral, nor yet to examine the degree in which the respective parties to the present contest have done so in Great Britain. ¶ The limit in the first instance is well known to be the law of trade, which passively ignores the

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character of the purchaser. That limit, I desire once more to declare to your lordship, has never been passed by the government of the United States, whatever may be the insinuations or intimations to the contrary, to which your lordship alludes. The repeated and authorized denials of them made by me would seem, in ordinary courtesy, to be entitled to full confidence, at least so long as it is admitted that no evidence exists to impair its reputation for good faith. ¶ On the other hand, the history of the past two years has proved beyond the possibility of denial that the insurgents have steadily and persistently been engaged in transgressing the limit above laid down. They have built ships in the ports of this kingdom with the intent to make war on the United States; they have equipped and armed those ships with the aid of British subjects; they have manned those ships by the enlistment of British subjects, and without ever entering any insurgent harbors; they have sailed on the high seas committing depredations on the property of the people of the United States under protection of the British flag. In advance of this series of proceedings I have been steadily engaged in making representations of the danger of the same to your lordship, the correctness of which has been almost uniformly verified by the result. In the very first instance in which I had the honor to present a remonstrance to your lordship, (the case of the gunboat Oreto,) it appears, from the admission of the individual now in command of that vessel, under the name of Florida, that she was built in the port of Liverpool with the intent to carry on war against the United States. I quote from the language of a letter signed J. N. Maffit, which has appeared in the public prints, when I say that „that corvette has, in fact, been built and armed by the government of the Confederate States of America." ¶ This building and arming are well known to have been done from the ports and harbors of Great Britain and its dependencies; and just so has it been with the other vessels of the same nature now on the ocean, that have never yet earned any national character excepting that which may attach to them from the territory where they were built, equipped, manned, and armed. ¶ It is unnecessary for me to enlarge further upon this view of the case, or to contrast this conduct of the insurgents with that observed by the United States. I shall content myself only with pointing out to your lordship that the suffering by Great Britain of such proceedings as I have complained of is in violation of the rules of neutrality established by the law of nations, as laid down by distinguished writers, including your lordship, as well as of the very terms of the enlistment act, as adopted in this kingdom for the purpose of enforcing those rules. ¶ This is the language of Martens on the subject: ¶ „Celui-là au contraire blesse les devoirs de la neutralité qui, sans engagements antérieurs, * tolère sur son territoire les préparatifs militaires de l'une des puissances belligérentes, *en souffrant des armements en course*," &c. ¶ I now quote from the authority of your lordship himself: ¶ „Attempts on the part of the subjects of a neutral government to take part in a war, or to make use of a neutral territory as an arsenal or barracks for the preparation and inception of direct and immediate hostilities against a state with which their government is at peace, as by enlisting

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soldiers, or fitting out ships-of-war, and so converting, as it were, neutral territory into a hostile depot or post, in order to carry on hostilities therefrom, have an obvious tendency to involve in the war the neutral government which tolerates such proceedings. Such attempts, if unchecked, might imply at least an indirect participation in hostile acts, and they are, therefore, consistently treated by the government of the neutral state as offences against its public policy and safety, which may thereby be implicated.“ ¶ How far the enlistment act appears to have been infringed upon, I trust I need go no further to show than to quote the view, with which your lordship has heretofore honored me, of what acts constitute a violation of that statute: ¶ „The foreign enlistment act is intended to prevent the subjects of the crown from going to war when the sovereign is not at war. ¶ Thus, private persons are prohibited from fitting out a ship-of-war in our ports, or from enlisting in the service of a foreign state at war with another state, or in the service of insurgents against a foreign sovereign or state. In these cases the person so acting would carry on war, and thus might engage the name of their sovereign and their nation in belligerent operations.“ ¶ And here your lordship will permit me to remind you that her Majesty's government cannot justly plead the inefficacy of the provisions of the enlistment law to enforce the duties of neutrality in the present emergency as depriving them of the power to prevent the anticipated danger. It will doubtless be remembered that the proposition made by you, and which I had the honor of being the medium of conveying to my government, to agree upon some forms of amendment of the respective statutes of the two countries, in order to make them more effective, was entertained by the latter, not from any want of confidence in the ability to enforce the existing statute, but from a desire to co-operate with what then appeared to be the wish of her Majesty's ministers. But, upon my communicating his reply to your lordship, and inviting the discussion of propositions, you then informed me that it had been decided not to proceed any further in this direction, as it was the opinion of the cabinet, sustained by the authority of the lord chancellor, that the law was fully effective in its present shape. ¶ It should here be observed that it was because I inferred from the language of your lordship's note of the 1st of this month a virtual abnegation by her Majesty's government of all power practically to prevent the violation of those admitted obligations of neutrality notoriously going on within this kingdom, that I felt it my duty to represent in firm, but I trust not disrespectful nor unsuitable language, the strong sense of injury which my government would unquestionably entertain on learning the unfortunate conclusion to which they had arrived. ¶ And here I must ask permission of your lordship to observe that the disposition shown in that note to attach credit to a fraud which, to me, seems so transparent as that attempted in the person of Mr. Bravay, was calculated to inspire in me the most serious fears of the possibility of my ever being able to interpose the smallest obstacle in future to the most barefaced imposture that might be practiced in these cases on her Majesty's government. Well knowing the unscrupulous character of the parties engaged in these operations,

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I had every reason to apprehend they would always be prepared with some similar specious pretence to annul any attempts further to hinder their illegal operations. ¶ The simulated ownership of this Mr. Bravay appears to have dated so long back as on the 3d of July last. It was first alleged that it had been claimed through the official agency of the consul of France at Liverpool. And in this form the story was honored by the countenance of the first minister, Lord Palmerston, in the debate which took place in the House of Commons on the 23d of that month. Your lordship will recollect that I took immediate measures to procure an effectual disavowal of that authority by the French consul, and to furnish the evidence to you. Supposing, that her Majesty's government were perfectly satisfied with this, you may judge of my extreme astonishment when I gathered from your note of the 1st instant that her Majesty's government, nearly two months afterwards, was still entertaining doubts about the truth of this story, and had not, during the long interval, obtained the evidence to set the matter at rest. Had your lordship done me the favor to mention the doubt at any time, I flatter myself that I could have supplied the necessary proof to dispel that illusion. I could have pointed out the fact that Mr. Bravay, professing to act as the agent of the Pacha of Egypt, yet carefully abstaining from any communication with his alleged employer, had addressed himself instead to the Emperor of the French, to get the support of his embassy in England, in order to effect the transfer of the vessels from under the British authority. ¶ He was foiled in his attempt by the plain answer, that, the ships having a foreign destination, the French agents had no authority to intervene with the British government to effect such a transfer. Not satisfied with making this answer, however, I am informed that the French government at once applied to the viceroy of Egypt in order to verify the correctness of Mr. Bravay's statement. The answer was, as might naturally have been inferred, a complete disavowal of any share in the transaction. Mr. Bravay, on being applied to for a copy of any contract under which he could claim to act for the Pacha, was obliged to confess that he had none. But he then pretended that his agreement was verbal with a person who he was sure could not this time be confronted with him to prove his want of veracity, the late Pacha of the same country. ¶ Such being the facts attending this extraordinary imposture, your lordship may judge of my surprise on learning from your note that on 1st of September „the inquiries set on foot by her Majesty's government had failed to show that the statement of French ownership was without foundation;“ furthermore, that „there was no legal evidence against Mr. Bravay's claim, and that the responsible agent of the customs at Liverpool affirmed his belief that these vessels had not been built for the confederates.“ Lastly, „that upon these and other grounds her Majesty's government were advised that they could not interfere in any way with these vessels.“ ¶ Under these circumstances, I trust I may be pardoned if I was somewhat moved in perceiving that the peace of two great countries, and the lives of, perhaps, thousands of the people inhabiting them, were about to be seriously endangered by the acts of profligate and unscrupulous mischief-makers,

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whose operations were to be permitted by reason of the want of a scruple of technical evidence to prove a gross and flagrant fraud. ¶ With regard to the opinion of her Majesty's customs agent at Liverpool, I had already had abundant causes to know the value of that in various preceding instances in which I have had occasion to address remonstrances against the notorious proceedings at that port. If her Majesty's ministers look no further for proof to invalidate the evidence which I have had the honor to present, I can readily foresee what will be the issue. I respectfully submit that the interests of two nations are of too much magnitude to be measured by the infinitesimal scale of the testimony permissible before a jury in a common law court. I may be pardoned if I here remind your lordship of the significant language used in a parallel case in former days by that distinguished British statesman, George Canning, when he deprecated the consequence of permitting the paltry, pettifogging way of fitting out ships in British harbors, to „sneak his country into a war." It may, indeed, well be that the inability to prevent some violations of neutrality in past instances, which your lordship is candid enough to confess, may be regarded by the United States as proceeding from special causes, which ought not to impair confidence in the enforcement of a general policy of neutrality by her Majesty's government; but I pray your lordship to consider what can be that security, when all the barriers are virtually removed out of the way of an effective levying of war against them from this kingdom on the most formidable scale. ¶ I feel it my duty to persist in the opinion that the evidence which I have had the honor to present to your attention, in regard to the character and intent of the war vessels fitting out at Liverpool, is entitled to belief, at least so long as it is not rebutted by far stronger proof to the contrary than that held out by the unsupported word of a French commercial adventurer, found to be capable of prevarication, if not of absolute falsehood, or by the bare opinion of an official person probably entertaining a sympathy with the cause of the guilty parties. The very fact that resort has been had to such flimsy pretences to prevent the detection of the true object, seems to afford the strongest proof that that object is not a lawful one, and is the one pointed out in the evidence. All exterior circumstances go to confirm this view. The universal impression notoriously existing in Liverpool, the concurrent intimations of the press of the insurgent States, and the absence of any other suitable explanation, though not constituting in themselves technical evidence, are yet important adjuncts to that which may fairly be classed under the definition. For myself, I must add that I entertain not a shadow of doubt that the substance of the evidence is true. If, then, there be any virtue in the authority upon which her Majesty's government deliberately decided that the provisions of the enlistment act would be enforced without the need of any amendment, this is, surely, a most fitting and urgent occasion upon which all the majesty of the law may be invoked to the end of establishing justice and maintaining peace. ¶ In conclusion, I pray your lordship's attention to the fact that, in spite of the decision to which her Majesty's government appear to have arrived, and which you have done me the honor to communicate to me, I have

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reason to believe that no efforts are intermitted to prepare the war vessels for immediate departure. Well acquainted, as I am, with the desperate character of the chief persons engaged in the insurrection in the United States, I shall be little surprised at learning of their resort to any and every expedient, however audacious or dishonest, which may have for its object the possession of these formidable ships. ¶ I pray, &c.

Charles Francis Adams.

To Earl Russell.

No. 1918.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. d. Verein.-Staaten in London. — Hinweisung auf künftige Entscheidung der Rechte der Neutralen durch das Brit. Parlament. —

Foreign Office, September 25, 1863.

No. 1918. Grossbritannien, 25. Sept. 1863.

Sir, — I have had the honor to receive your letters of the 16th and 17th of September. ¶ As the whole question is under the consideration of her Majesty's government, and the orders given not to permit the iron-clads to leave Liverpool until further inquiry has been made, seems to be sufficient for the purpose of the present moment, I will delay any answer to their letters till the facts have been more fully ascertained. ¶ It is right to inform you that upon receiving assurance, which the treasury consider satisfactory, that the vessel shall be returned to Birkenhead, the Mssrs. Laird have been permitted to make a trial trip with the vessel which is the most advanced. ¶ I can assure you that I am not less anxious than yourself that the duties of neutrality should be performed strictly and impartially by the government of Great Britain. ¶ There are, however, passages in your letter of the 16th, as well as in some of your former ones, which so plainly and repeatedly imply an intimation of hostile proceeding towards Great Britain on the part of the government of the United States, unless steps are taken by her Majesty's government which the law does not authorize, or unless the law, which you consider as insufficient, is altered, that I deem it incumbent upon me, in behalf of her Majesty's government, frankly to state to you that her Majesty's government will not be induced by any such consideration either to overstep the limits of the law, or to propose to Parliament any new law which they may not, for reasons of their own, think proper to be adopted. They will not shrink from any consequences of such a decision. ¶ I have, &c.

Russell.

To Mr. Adams.

No. 1919.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die Entscheidung der Brit. Regierung, die Detention der p. p. Panzerschiffe betr. —

Department of State, Washington, September 28, 1863.

No. 1919. Vereinigte Staaten, 28. Sept. 1863.

Sir, — I have the honor to acknowledge the receipt of your despatch of the 8th of September, together with the correspondence which took place between Earl Russell and yourself on the occasion of the decision of her Majesty's government to prevent the departure of the iron-clad steamships which have been prepared at Liverpool to make war against the United States. ¶ You are already aware of the considerations affecting the safety of our country which make this proceeding eminently gratifying. There are, however, other circumstances which ought not to be overlooked. This government has not been forgetful of the agency of disloyal citizens of the United States in inaugurating the hostile enterprise, and in instigating debates in Parliament and in the press which have tended to embarrass the British ministry, and aggravate the responsibility which has devolved upon them. The President, therefore, thinks that he apprehends in some degree the firmness and fidelity to just principles which the cabinet of London has exercised. Nor does he for a moment doubt that a sincere desire to cultivate the friendship of the United States has had its proper influence in the determination at which the cabinet has arrived. You will, therefore, specially inform Earl Russell that the government of the United States will hereafter hold itself obliged, with even more care than heretofore, to endeavor to conduct its intercourse with Great Britain in such a manner that the civil war in which we are unhappily engaged shall, when it comes to its end, leave to neither nation any permanent cause of discontent. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1920.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. A. an den Gesandten in London. — Ernstliche Vorstellung gegen die Haltung Englands in der Frage der Laird'schen Widderschiffe. —

Department of State, Washington, October 5, 1863.

No. 1920. Vereinigte Staaten, 5. Oct 1863.

Sir, — I have had the honor to receive and to submit to the President your despatch of the 17th of September, which relates to the iron-clad vessels built at Laird's ship-yards for war against the United States, and which is accompanied by a very interesting correspondence that has taken place on that subject between yourself and Earl Russell. ¶ The positions you have taken in this correspondence are approved. ¶ It is indeed a cause of profound concern, that, notwithstanding an engagement which the President has accepted as final, there

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still remains a doubt whether those vessels will be prevented from coming out, according to the original hostile purposes of the enemies of the United States residing in Great Britain. You have, however, exhausted the argument upon that subject; nor do I perceive that your exposition can be improved or materially re-enforced. Earl Russell remarks, that her Majesty's government having proclaimed neutrality, have in good faith exerted themselves to maintain it. I have not to say now for the first time, that however satisfactory that position may be to the British nation, it does not at all relieve the gravity of the question in the United States. The proclamation of neutrality was a concession of belligerent rights to the insurgents, and was deemed by this government as unnecessary, and in effect as unfriendly, as it has since proved injurious to this country. The successive preparations of hostile naval expeditions in Great Britain are regarded here as fruits of that injurious proclamation. ¶ Earl Russell adds, that the United States have derived some military supplies from Great Britain, and enlisted many British subjects in their cause. But it can hardly be denied that neither such supplies nor such men would have been necessary, if Great Britain had not, so far as she was concerned, first, raised the insurgents to the position of belligerents. Neither the government of Great Britain, or any other recognized party, has contended, or can contend, that the United States have violated any municipal law, or any treaty, or the law of nations, or even comity towards the British government, in the proceedings by which they have received as merchandise supplies derived from British sources, and have accepted British subjects voluntarily residing in our own country, and voluntarily enlisting as soldiers and seamen in maintaining the cause of the Union. It is hardly necessary to say that the United States stand upon what they think impregnable ground, when they refuse to be derogated, by any act of British government, from their position as a sovereign nation in amity with Great Britain, and placed upon a footing of equality with domestic insurgents who have risen up in resistance against their authority. ¶ It does not remain for us even to indicate to Great Britain the serious consequences which must ensue, if the iron-clads shall come forth upon their work of destruction. They have been fully revealed to yourself, and you have made them known to Earl Russell, within the restraints which an honest and habitual respect for the government and the people of Great Britain imposes. It seems to me that her Majesty's government might be expected to perceive and appreciate them, even if we were henceforth silent upon the subject. When our unhappy civil war broke out, we distinctly confessed that we knew what great temptations it offered to foreign intervention and aggression, and that in no event could such intervention or aggression be endured. It was apparent that such aggression, if it should come, must travel over the seas, and therefore must be met and encountered, if at all, by maritime resistance. We addressed ourselves to prepare the means of such resistance. We have now a navy, not indeed as ample as we proposed, but yet one which we feel assured is not altogether inadequate to the purposes of self-defence, and it is yet rapidly increasing in men, material, and engines of war. Besides this regular naval force, the President has asked, and Congress has given him, authority to convert the mercan-

tile marine into armed squadrons, by the issue of letters of marque and reprisal. All the world might see, if it would, that the great arm of naval defence has not been thus invigorated for the mere purpose of maintaining a blockade, or enforcing our authority against the insurgents, for practically they have never had on open port, or built and armed, nor could they from their own resources build and arm, a single ship-of-war. Every European statesman who knows anything of our history, or even of the nature of our complex republican institutions, understands full well that we are building a navy not for ulterior, or even immediate foreign war, but for self-defence. Thus, the world is left free to understand that our measures of maritime war are intended to resist maritime aggression, which is constantly threatened from abroad, and even more constantly apprehended at home. That it would be employed for that purpose, if such aggression should be attempted, would seem certain, unless, indeed, there should be reason to suppose that the people do not in this respect approve of the policy and sympathize with the sentiments of the executive government. But the resistance of foreign aggression by all the means in our power, and at the hazard, if need be, of the national life itself, is the one point of policy on which the American people seem to be unanimous, and in complete harmony with the President. This is no menace of war to Great Britain; it is simply an assumption of the position of self-defence against a naval enemy, from whatever quarter the may come. Need I add, that this position is not affected by the character in which the enemy may come, whether under the authority and bearing the flag of a foreign state, or as an unauthorized invader, defying the authority of his own state, while seeking to invade our own? If, then, we shall become engaged with such an enemy, whether he comes from Great Britain, or from France, or from Russia, what must be the limit of our resistance? The law of nations says that the only limit is that which can be defined by ascertaining the magnitude of the public danger. ¶ I do not know that it is necessary, or would be useful, to communicate any part of this paper to Earl Russell. But the President is of opinion that you should be fully apprised of the views of this government, and authorized to use them as you may think proper. ¶ I am, &c.

No. 1920. Vereinigte Staaten, 5. Oct. 1863.

William H. Seward.

To Mr. **Adams.**

No. 1921.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Das Verhör vor dem Court of Exchequer in der Angelegenheit der „Alexandra". —

[Extracts.]

Legation of the United States, London, June 26, 1863.

Sir, — By the present conveyance, copies of the newspaper report of the trial of the Alexandra, as well as of a special report made under the direction of Mr. Dudley, the consul at Liverpool, will be transmitted to you. Although the result varies little from my anticipation of it, yet some of the details

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are unexpected, and furnished much food for reflection. The presiding judge has decided the cause, and that upon a construction of the enlistment act which leaves nothing of it, as a penal measure of prevention, but the name. Without the interposition of some new barrier, Great Britain must, from this time, appear as ready to furnish the means for any and every enterprise that may be undertaken, within her limits, against nations with which she professes at the same time to be under the most solemn engagements to keep the peace. ¶ As exceptions have been taken by the government against this ruling, the case will now be carried up to the full bench. In case of their confirming it, I understand the intention to be to take an appeal to the House of Lords. Practically, therefore, no change in the relations of the parties is likely to occur for some months. The Alexandra will remain under interdict, and there will be no relaxation of the efforts to check the progress of the steamers yet building. This will furnish a useful delay, as well to consider the precise position in which the two countries are now placed relatively to each other, as to mature the policy which it will be deemed proper to adopt to meet the emergency. ¶ Obviously the first idea is, that the obligations upon the two nations in regard to neutrality are not left reciprocal, as they should be. Whilst the United States execute the law enacted to make them good, Great Britain practically invalidates them by raising up a judicial construction which annuls its own statute designed to the same end. One of two consequences would seem necessarily to follow: either Great Britain must interpose a new and more effective remedy, or else the United States must withdraw theirs, at least so far as it may apply to Great Britain. If the latter country be content to abide by this arrangement, I am not quite sure that we should be the first to complain. In the long run she has quite as much to lose by lax morality on the ocean as any nation. The duty is, however, not the less incumbent to force her to accept the issue, and to place on record either her acknowledgment of her international obligations, or her release of other nations from the necessity of observance of the same towards herself.*) ¶ I have, &c.

Charles Francis Adams.

To Mr. Seward.

No. 1922.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die Antwort auf das Schreiben des Letzteren vom 26. Juni 1863, die Angelegenheit der „Alexandra“ betr. —

Department of State, Washington, July 11, 1863.

No. 1922. Vereinigte Staaten, 11. Juli 1863.

Sir, — Your despatch of the 26th of June has been received, together with three paper books containing a report of the trial of the Alexandra. ¶ In giving you the President's views in regard to that case and the questions depending upon it, I labor under some embarrassments, resulting from an ignorance

*) Das Urtheil war für die „Alexandra“ ein freisprechendes. D. H.

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of what may have occurred in Europe since the date of your despatch. It is known here that at that time a movement in the House of Commons demanding a recognition of the insurgents by her Majesty's government was set down for the 30th of June, and that you were not altogether without apprehension that the movement, aided by a moral effect of the verdict in the case of the Alexandra, and backed by a supposed patronage in France, might prevail. Secondly, we have not altogether been able to disregard the rumors of a design of the Emperor of France to recognize the insurgents, with or without the concurrence of the government of Great Britain. Thirdly, that movement was to be based upon the ground of the demonstrated failure of the armies of the Union; but while it was going on, those armies have achieved victories which here are regarded as warranting an expectation of a complete and rapid extinguishment of the insurrection. These brilliant and important victories, however, are as yet unknown in Europe. ¶ Under these circumstances, I shall assume that no act has been done by the government of France or by the government of Great Britain, especially by the latter, to change the relations that have heretofore existed between those countries, respectively, and the United States, and I shall confine myself to the duty of explaining frankly the opinions of the President and the policy which he will pursue in regard to maritime questions in view of the result in the case of the Alexandra. ¶ *First.* You are authorized and expected to assure Earl Russell that this government is entirely satisfied that her Majesty's government have conducted the proceedings in that case with perfect good faith and honor, and that they are well disposed to prevent the fitting out of armed vessels in British ports to depredate upon American commerce and to make war against the United States. ¶ *Secondly.* This government is satisfied that the law officers of the crown have performed their duties in regard to the case of the Alexandra with a sincere conviction of the adequacy of the law of Great Britain and a sincere desire to give it effect. ¶ *Thirdly.* The government of the United States does not descend to inquire whether the jury in the case were or were not impartial. It willingly believes they were so, and it accepts the statement made with so much unanimity by all the reporters of the case, that the judge who presided at the trial made the bench responsible for the verdict by the boldness and directness of his rulings against the prosecution. ¶ *Fourthly.* Great Britain being a free and constitutional country, and the proceedings in the case of the Alexandra having been thus far conducted by the government in good faith and according to law, the United States would not be justified in deeming the verdict rendered by the jury a cause of national complaint, provided that the government prosecutes an appeal to the higher courts until it be determined in the court of last resort whether the law is adequate to the maintenance of the neutrality which her Majesty has proclaimed, and provided also that in the mean time the Alexandra and other vessels which may be found violating or preparing to violate the law be prevented, so far as the law may allow, from leaving British ports to prosecute their work of devastation. ¶ The President is not prepared to believe that the judiciary of Great Britain will, with well-considered judgment, render nugatory and void a statute of the realm which,

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with its counterpart in our own legislation, has hitherto been regarded by both nations as a guarantee of that mutual forbearance which is so essential to the preservation of peace and friendship. Nor shall I incur the hazard of producing irritation on either side of the ocean by criticising the reasoning by which the learned judge who tried the case of the Alexandra justified his conclusions thereon, or by which that portion of the British press which approves the verdict labors to defend it. ¶ It would be very gratifying to me if I were allowed to rest here. But the position in which the case of the Alexandra is left by the recent trial renders it necessary to contemplate a possible affirmation of the rulings of the chief baron in the court of dernier resort. You are entitled to know, and it seems proper that you should be able to communicate to her Majesty's government, the views which the President has taken of the rights and duties of this government in that unlooked for and deeply to be deprecated event. I trust that I shall be able to express those convictions calmly and dispassionately without wounding the just self-respect of her Majesty's government. If the rulings of the chief baron of the exchequer in the case of the Alexandra shall be affirmed so as to regulate the action of her Majesty's government, the President will, as he thinks, be left to understand that there is no law in Great Britain which will be effective to preserve mutual relations of forbearance between the subjects of her Majesty and the government and people of the United States in the only point where they are exposed to infraction. The fitting out of the Alabama and the Florida, as well as of the Alexandra, will thus receive the sanction of the government, and the United States will be without any guarantee whatever against the indiscriminate and unlimited employment of capital, industry, and skill by British subjects, in building, arming, equipping, and sending forth ships-of-war from British ports to make war against the United States. ¶ I may safely protest, in behalf of the United States, against the assumption of that position by the British nation, because this government, with a statute exactly similar to that of Great Britain, does constantly hold itself able and bound to prevent such injuries to Great Britain. The President thinks it not improper to suggest for the consideration of her Majesty's government the question whether, on appeal to be made by them, Parliament might not think it just and expedient to amend the existing statute in such a way as to effect what the two governments actually believe it ought now to accomplish. In case of such an appeal the President would not hesitate to apply to Congress for an equivalent amendment of the laws of the United States if her Majesty's government should desire such a proceeding, although here such an amendment is not deemed necessary. ¶ If the law of Great Britain must be left without amendment, and be construed by the government in conformity with the rulings of the chief baron of the exchequer, then there will be left for the United States no alternative but to protect themselves and their commerce against armed cruisers proceeding from British ports, as against the naval forces of a public enemy; and also to claim and insist upon indemnities for the injuries which all such expeditions have hitherto committed or shall hereafter commit against this government and the citizens of the United States. To this end this government is now preparing

a naval force with the utmost vigor; and if the national navy, which it is rapidly creating, shall not be sufficient for the emergency, then the United States must bring into employment such private armed naval forces as the mercantile marine shall afford. British ports, domestic as well as colonial, are now open, under certain restrictions, to the visits of piratical vessels, and not only furnish them coals, provisions, and repairs, but even receive their prisoners when the enemies of the United States come in to obtain such relief from voyages in which they have either burned ships they have captured, or have even manned and armed them as pirates and sent them abroad as auxiliaries in the work of destruction. Can it be an occasion for either surprise or complaint that if this condition of things is to remain and receive the deliberate sanction of the British government, the navy of the United States will receive instructions to pursue these enemies into the ports which thus, in violation of the law of nations and the obligations of neutrality, become harbors for the pirates? The President very distinctly perceives the risks and hazards which a naval conflict thus maintained will bring to the commerce and even to the peace of the two countries. But he is obliged to consider that in the case supposed the destruction of our commerce will probably amount to a naval war waged by a portion at least of the British nation against the government and people of the United States—a war tolerated although not declared or avowed by the British government. If, through the necessary employment of all our means of national defence, such a partial war shall become a general one between the two nations, the President thinks that the responsibility for that painful result will not fall upon the United States. ¶ In stating thus frankly the views of this government, it is proper for me to add that it is not the President's purpose to resort to the extraordinary measures of defence to which I have referred, unless they shall be rendered necessary by a final decision of the British government that it cannot and will not interfere to restrain the hostilities which are now apprehended; nor will I allow myself to suppose that her Majesty's government will for a moment conceive that anything I have written upon this point is written in a spirit of mere demonstration; on the contrary, while the pacific and friendly disposition of her Britannic Majesty's government is fully appreciated and relied upon, it is well understood that that government is the last one in the world to yield to vehemence what cannot be conceded in equity and justice. So, on the other hand, it ought to be understood that the United States, if they could ever be presumptuous, are sufficiently chastened already by the scourge of civil war to seek peace and friendship with Great Britain and all other nations through any concession that is compatible with the permanent interests of national life and honor. ¶ I am, &c.

William H. Seward.

To Mr. Adams.

No. 1923.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Staatssecretär f. d. ausw. A. — Die weiteren Vorgänge in der Sache der „Alexandra". —

[Extract.]

Legation of the United States, London, November 27, 1863.

No. 1923. Vereinigte Staaten, 27. Nov. 1863.

Sir, — I have the honor to transmit a newspaper report of the remainder of the proceedings in the case of the Alexandra. No decision has yet been announced from the court. If it should be unfavorable to the motion, it is understood that the government will take an appeal to the higher court. The earnestness and vigor displayed by the law officers of the crown in the prosecution of this case on the present occasion leave nothing to be desired. It gives me pleasure to be able to bear this testimony at last. ¶ The refusal of this government to go into the congress proposed by the French emperor will put an end to that project. Very possibly it may lead to new combinations all over Europe. In the mean time the Danish question is assuming an aspect more and more serious. The popular sentiment of Germany may prove difficult to control. Should it become impossible, war seems inevitable. In any event, the prospect is that the winter will be consumed in agitation and diplomatic negotiation on this subject. The bearing of this on American affairs I have already frequently descanted on. So long as this state of things shall continue, it is not probable that any efforts in favor of the rebels will make headway in this country. I have just had an opportunity to see the latest scheme of an association, set agoing under the auspices of that industrious patron of their cause, * * * *. The object of the movement is to operate upon Parliament at the approaching session. In the mean while Mr. Spence is employed in making popular addresses for the purpose of organizing something that may look like public opinion. ¶ I have, &c. *Charles Francis Adams.*

To Mr. Seward.

No. 1924.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Verzögerungen in der Aburtheilung der „Alexandra". —

Department of State, Washington, February 1, 1864.

No. 1924. Vereinigte Staaten, 1. Febr. 1864.

Sir, — It is supposed here that the delay in the case of the Alexandra, which results fron the decision recently pronounced, and the appeal thereon to the court of exchequer, are regarded by her Majesty's government as not unfavorable to the policy they have adopted to prevent the levying of naval war from British ports against the United States. In view of this circumstance I forbear for the present from making a formal protest against that decision. ¶ There are some indications of a movement concerted in the insurgent region, and extending into Great Britain, to bring a supposed influence of her Majesty's government

or of Parliament to bear upon this government, by some form of mediation or representation, with a view to obtain concessions or terms for the insurgents as conditions of the abandonment by them of their wicked and unnatural war against the United States. ¶ It is proper that you should be able to say, if occasion for such explanation should become necessary, that this government now, not less than heretofore, would regard as unacceptable and unfriendly the intervention or advice of foreign states. The stability and safety of the American republic demand that it shall go through this the first national crisis, when foreign aid to overthrow it has been invoked by disloyal men, without yielding or abating any portion of its legal or even of its moral sovereignty and independence. ¶ I am, &c. *William H. Seward.*

No. 1924. Vereinigte Staaten, 1. Febr. 1864.

To Mr. Adams.

No. 1925.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Staatssecretär f. d. ausw. Ang. — Das Erkenntniss des Hauses der Lords in der Sache der „Alexandra". —

[Extract.]

Legation of the United States, London, April 8, 1864.

No. 1925. Vereinigte Staaten, 8. April 1864.

Sir, — As Mr. Evarts does not appear yet to have returned from his visit to Rome, I transmit a report, in the Times of yesterday, of the decision of the House of Lords on the appeal in the case of the Alexandra. It appears that here, as in the courts below, there was a difference of opinion. The case has thus, after passing through the ordeal of all the courts, been virtually decided by Chief Baron Pollock's summary instructions to the jury on the first hearing, understood by them in a different sense from that which he claims to be the true one. All the rest has been a mere contest about forms. The government has been completely baffled in its honest endeavor to obtain a legal base of action against a flagrant violation of the neutrality of the kingdom, and is thrown back upon the task of commencing the work all over again. There never was such a comedy performed on a grave subject in the whole history of law. ¶ I have, &c. *Charles Francis Adams.*

To Mr. Seward.

No. 1926.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die Ansichten des Ersteren über das ergangene Erkenntniss in der Sache der „Alexandra" betr. —

Department of State, Washington, April 22, 1864.

Sir, — I have received your confidential despatch of the 8th of April, together with a copy of the London Times, which contains the reason assigned by the law lords for their decision dismissing the appeal of the Alexandra. I

No. 1926. Vereinigte Staaten, 22. April 1864.

No. 1926. Vereinigte Staaten, 22. April 1864.

have expressed in a letter to Mr. Evarts the view I have taken of the course to be pursued on that subject in London, and I have transmitted to you a copy of that communication. ¶ I have submitted to the President the reflections upon the temper and disposition of the British nation as they are affected by our civil war with which you have favored me. The correctness of your views is established by the fact that the insurgents manifestly have a bold, vigorous, and effective party in both houses of Parliament and in the British press, which party is confessedly influential in the general administration of public affairs, while the United States seem to have in the British legislature and in the British press no advocates or defenders, except persons who, however great their ability and worth, are, nevertheless, practically excluded from the conduct of national affairs. There is, moreover, a marked habit prevailing in Great Britain of comparing British resources and achievements with American resources and achievements, and this is done so unnecessarily, and often in a spirit so illiberal, as to indicate a sense of rivalry. Our civil war has endured three years. It has necessarily brought up many irritating and perplexing questions between the two countries. I think it would be safe to say that no belligerent state ever bore itself more forbearingly towards a neutral power, whose subjects committed so many injuries and provocations, than we have done towards Great Britain. I think it equally clear that no neutral power was ever more unyielding and more exacting towards a belligerent than Great Britain has been towards the United States. Your inference from this condition of things is, that this government must apply itself with the greatest possible energy to bring the civil war to a speedy and triumphant conclusion, or else it may have reason to expect conflict with Great Britain and with her allies. While, however, we accept this wise counsel, it would be unjust on my part toward the Treasury, War, and Navy Departments if I were to withhold the expression of a thorough and deliberate conviction that the war is conducted with all the energy and skill which any adminstration of the government of the United States in their cirumstances could command. ¶ The conflict is indeed a great one, and the ideas and interests which sustain the parties engaged in it render it fierce and obstinate. We must, therefore, accept the case as it is—a case of severe domestic trial, with continual danger of foreign intervention. We have before us but one line of duty—that is, the way of perseverance. It is the course we have pursued hitherto. It will save us now unless we are to be lost. That this nation can be lost is a conclusion that neither our virtue nor our patriotism nor even our reason can accept. ¶ I will say how great our confidence in the opening campaign is. Events are so near that we can more wisely wait for them than anticipate them. Nor can we prudently forget that of all human transactions those of war are, in their sequence, the most uncertain and capricious although the ultimate results are a subject of political calculation. We have the conviction that the national cause is in a far stronger condition now than it has been at any previous stage of the civil war, while the disunion forces seem weaker than at any time heretofore. The maritime powers whose interference is to be apprehended if we shall be unfortunate, seem to me to be somewhat less at liberty to engage against us

now than they have hitherto been. I think it certain that we have more friends and fewer enemies abroad now than we have had at former periods of the war. Thus time seems to be favoring us, and time is always the best friend of justice and truth. Nor is it necessary to suppress the conviction, that pacific as the temper of the American people is, yet that the efforts and sacrifices which they have hitherto made are inconsiderable compared with what they would make if now assailed by a foreign enemy. Practically there is no longer a hearing in the country for a man who counsels fear of the enemy at home; much less would there be a hearing for one who should counsel submission to aggression from abroad. These are the grounds upon which the President builds his hope that we shall pass safely through the trials which are before us. ¶ I am, &c.

No. 1926. Vereinigte Staaten, 22. April 1864.

William H. Seward.

To Mr. Adams.

No. 1927.

VEREINIGTE STAATEN von **AMERIKA**. — Mr. Burnley an den Staatssecretär f. d. ausw. Ang. — Die Beziehung der „Mary" (früher „Alexandra") zu den Rebellenstaaten. —

Washington, October 9, 1864.

Sir, — With reference to your note of the 13th ultimo, relative to the steamer Mary, and her supposed connexion with the southern insurgents, I have the honor to enclose copy of a despatch which I have received on this subject from the lieutenant governor of Nova Scotia. ¶ I have, &c.

No. 1927. Vereinigte Staaten, 9. Oct. 1864.

J. Hume Burnley.

To Mr. Seward.

Anlage. —

Government House, Halifax, Nova Scotia, September 30, 1864.

Sir, — I have the honor to acknowledge the receipt of yours of the 13th instant, which did not reach me till the 28th instant. Your letter encloses a communication from Mr. Seward, representing that the Mary, formerly the Alexandra, has arrived at Halifax, for the supposed purpose of being armed and equipped for the confederate service. ¶ Mr. Seward, therefore, suggests that you should communicate with me, in order that the hostile designs of that vessel against the United States and their shipping may not be carried into effect from any port within my jurisdiction. ¶ In reply, I have to state that in future, as heretofore, my most strenuous exertions shall be directed to maintaining within the neutral waters of this portion of her Majesty's dominions the strictest observance of those orders which have been issued for my guidance in reference to belligerent cruisers, whether federal or confederate. ¶ I cannot, however, interfere with any vessel British-owned, in a British harbor, on mere suspicion; nevertheless, I have so decided a determination to prevent any abuse of the accommodation afforded by this port to any party, that I have instituted inquiry, for my own satisfaction, into the rumored destination of the Mary. I have even directed that the Mary shall be watched, and am prepared to interfere, if any illegal equipment of that vessel, for warlike purposes, be attempted in this province. ¶ At the same time you may inform Mr. Seward that the result of my inquiries leads me to

No. 1927. Vereinigte Staaten, 9. Oct. 1864.

suppose that the Mary, although originally strongly built, and apparently intended for warlike purposes, is now lying here an embarrassment to her owners, unsaleable and unserviceable, either as an ordinary merchantman or a cruiser. Her speed under steam does not exceed four and a half knots, and I believe she is considered a failure, whatever may have been her original destination. Therefore no difficulty is likely to arise in her case. ¶ I have, &c.

R. G. Macdonnell,
Lieutenant Governor.

To Mr. **Burnley.**

No. 1928.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an Mr. Burnley. — Das Benehmen des Gouverneur von Nova Scotia hinsichtlich der „Mary" (früher „Alexandra"). —

Department of State, Washington, October 20, 1864.

No. 1928. Vereinigte Staaten, 20. Oct. 1864.

Sir, — I have the honor to acknowledge the receipt of your note of the 9th instant, which is accompanied by a copy of a despatch of the 30th of September, addressed to you by the lieutenant governor of Nova Scotia, relative to the steamer Mary, and her supposed connexion with the insurgents, which formed the subject of my communication of the 13th ultimo. In reply I have the honor to state that the action of his excellency in the premises is highly creditable to himself, and is justly appreciated by this government. ¶ I have, &c.

William H. Seward.

To Mr. **Burnley.**

No. 1929.

GROSSBRITANNIEN. — Ges. in Washington an den Staatssecretär f. d. ausw. Ang. — Durchsuchung, bez. Wegnahme Brit. Kauffahrer (Thistle und Dolphin) durch Kreuzer der Verein.-Staaten (Tuscarora und Wachusett). —

Washington, May 4, 1863.

No. 1929 Grossbritannien, 4. Mai 1863

Sir, — It will be in your recollection that on the 4th of February last I did myself the honor, in pursuance of instructions from her Majesty's government, to address to you a note respecting the mode in which the United States ship Tuscarora had exercised the belligerent right of search, off Madeira, in the case of the British merchant vessel Thistle. ¶ In that note I stated to you that her Majesty's government were of opinion that it was competent to the Tuscarora to stop and visit the Thistle upon the high seas, but that her Majesty's government considered that it was not competent to the United States cruisers to make a belligerent use of the port of a neutral state, and that a more un-neutral use of a port could not be well conceived than lying in wait in it for the vessels of another neutral state, as they entered and left it, and, on their passing the limit

of three miles, boarding and visiting them, and then returning to the port. ¶ I further informed you in the same note that her Majesty's government had directed me to point out to you that a persistence by the cruisers of the United States in such a course as that pursued by the Tuscarora at Madeira would be a violation of the principles of international law, which would concern both the country in whose dominions the neutral port so used might be situated, and the country to which the vessels visited might belong. ¶ In a note which you did me the honor to address to me on the 23d February you informed me that, if the facts in the case of the Thistle had been correctly reported to the British government, the conduct of the commander of the Tuscarora was deemed censurable, and that the Navy Department had written to him to that effect, instructing him as to the error which he was supposed to have committed. ¶ I have referred to this correspondence in the hope of leading the government of the United States to consider, seriously, whether the recent proceedings of the United States cruisers at the Danish port of St. Thomas have been in accordance with the principles which it establishes. The circumstances under which the Peterhoff was captured off that port are well known to you. The enclosed extract from a report from Captain Barnard, of her Majesty's ship Nile, to Vice-Admiral Sir Alexander Milne, gives the following account of the proceedings of the United States ship Wachusett at the same port. He states that the ship slipped her cable at midnight on the 24th—25th of March, and followed an English steamer, called the Dolphin, to sea, and that she returned to the port at 9 p. m. on the next day. A report to the Vice-Admiral, from Captain Tatham, of her Majesty's ship Phaeton, (of which also an extract is enclosed,) shows that the Wachusett, having captured the British vessel which she followed, brought back sixteen of the crew to St. Thomas. A protest made by the master of the Dolphin at Havana, in which the particulars of the capture were stated, was transmitted to you with the note which I did myself the honor to write to you on the 29th ultimo. ¶ I have, &c.

Lyons.

To Mr. Seward.

Anlagen. — Vorkommnisse aus früheren Daten, das Durchsuchungsrecht betreffend. —

Washington, April 29, 1863.

Sir, — I think it right to submit to the government of the United States the authenticated copy, which I enclose herewith, of a protest made before her Majesty's acting consul general at Havana, by the master, the mate, the chief engineer, and the purser, of the British steamship Dolphin, which appears to have been captured by the United States ship Wachusett, in a voyage from Liverpool to Nassau. ¶ There is much in the protest that seems to call for your serious consideration. Among the points to which I will ask your particular attention is the allegation that the chief engineer was put in irons for more than twenty-four hours by order of the prize officer. ¶ I beg you to be so good as to send me back the authenticated copy of this protest. ¶ I have, &c.

Lyons.

To Mr. Seward.

No. 1929. Grossbritannien, 4. Mai 1863.

Washington, April 29, 1863.

Sir, — I have the honor to ask you to give serious attention to the enclosed extracts from a despatch which I have received from her Majesty's consul at New Orleans. ¶ It appears from them that a British steamship, the Antona, was brought into New Orleans as a prize on or before the 30th January last. That no judicial proceedings have been taken in the case; but that, nevertheless, the cargo has been discharged and ordered to be sold, and the ship been taken for the naval service of the United States. ¶ It appears, moreover, that the master, Mr. George Grindle, has been kept as a prisoner ever since the capture of his ship. ¶ I have, &c.

Lyons.

To Mr. **Seward.**

Washington, May 1, 1863.

Sir, — Her Majesty's government have had under their consideration the note which you did me the honor to address to me on February 11, last, as well as the correspondence which I had had with you before the date of that note, on the subject of the seizure of the British schooner Mont Blanc, at Sand cay, Bahama bank. ¶ This seizure is admitted to have been made in British waters, and while the Mont Blanc was at anchor; and her Majesty's government have, accordingly, desired me not only to express to you their expectation that the government of the United States will make some compensation to the owners for the plain wrong done to them, but also to address to the government of the United States a remonstrance against the violation of British territory committed in this case, and to request that orders may be given to the United States navy to abstain from committing the like grave offence against international law and the dignity of the British crown. ¶ Her Majesty's government have further directed me to point out that the necessity for such orders is shown by the fact that Commander Collins, the captain of the Mont Blanc, would appear, from his letter to the Secretary of the United States navy, of the 26th of December last, either to be entirely ignorant of the law, or entirely to disregard it. ¶ In the opinion of her Majesty's government, the circumstance that the Mont Blanc was at anchor at the time of the capture, renders the wrong inflicted on the owners, and the contempt for British rights exhibited by the captain, very flagrant. Her Majesty's government are the more surprised at the occurrence, as the letter which you addressed to the Secretary of the Navy on the 8th of August last, and of which you did Mr. Stuart the honor to communicate a copy to him on the following day, expressly forbids captures in neutral waters. ¶ I have, &c.

Lyons.

To Mr. **Seward.**

No. 1930.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Gesandten in Washington. — Antwort auf des Letzteren Schreiben vom 4. Mai 1863, das Durchsuchungsrecht betr. —

Department of State, Washington, May 5, 1863.

No. 1930. Vereinigte Staaten, 5. Mai 1863.

My Lord, — I have the honor to acknowledge the receipt of your lordship's note of the 4th instant, relating to the manner of the capture of the Dolphin, and suggesting that some of the proceedings of the Wachusett in connexion with that transaction were of questionable propriety. I shall lose no time in bringing the same to the notice of the proper department of the govern-

ment, with a view to the correction of irregularities in the exercise of the right of search, if any shall be found to have occurred. ¶ I have, &c.

No. 1930. Vereinigte Staaten, 5. Mai 1863.

William H. Seward.

To Lord Lyons.

No. 1931.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Gesandten in Washington. — Die Durchsuchung und Wegnahme des Brit. Schiffs „Mont Blanc" durch den Octorora betr. —

Department of State, Washington, May 7, 1863.

No. 1931. Vereinigte Staaten, 7. Mai 1863.

My Lord, — I have the honor to acknowledge the receipt of your lordship's note of the 1st instant, which relates to the seizure of the British schooner Mont Blanc, at Sand cay, Bahama bank, on the 21st day of December last. ¶ When this case was first brought by you to the notice of this department, I called upon the secretary of the Navy for information, which resulted in a confirmation of your lordship's representation, that the Mont Blanc was seized while at anchor and when lying within one mile of the shore, in waters of which Great Britain claims jurisdiction. The vessel having been carried into Key West for adjudication, the attention of the district attorney there was directed to the case. That officer, on the 2d of February last, reported to me that he had consented to the dismission of the libel against her, and procured her restitution to the master and claimant, for the reason that the evidence and statements of all parties left no room to doubt that the place where she was seized was within British waters. The fact of this restoration was made known to your lordship by me in my note of the 11th of February last. ¶ It seemed probable, at that time, that the master and claimant might have waived any further claim by assenting to the disposition of the case which was thus made, without insisting upon a continuance of the case for the purpose of obtaining an award of damages. In your note now before me, however, you state that her Majesty's government expect that the government of the United States will make some compensation to the owners for the plain wrong done to them. I have submitted this claim to the President, and am authorized to say that he admits that, in view of all the circumstances in the case, such compensation ought to be made. The Secretary of the Navy will, therefore, designate some person at or near Key West to confer with such person as her Majesty's authorities may appoint, to ascertain and agree upon the damages to be thus paid; and the President, upon their report, will ask an appropriation of Congress for the discharge of the claim at their next session. ¶ I must attribute these proceedings of Commander Collins, of the Octorora, in making the seizure, to mere inconsiderateness. I can, therefore, hardly believe that it is necessary to renew, as you propose, the instructions, which, before that time, had been given to the United States navy, to abstain from seizures in neutral waters. Nevertheless, the President, being sincerely desirous to avoid the exercise of any questionable belligerent rights against Great

No. 1931. Vereinigte Staaten, 7. Mai 1863.

Britain or any other maritime power, has thought proper to direct that the attention of the officers of the navy shall be distinctly called to the instructions which were mentioned in my note to you of the 8th of August last, and that they be expressly enjoined to rigidly observe and conform to the same. With a view to this effect the Secretary of the Navy has been directed to make known to Commander Collins that, by his seizing the Mont Blanc in British waters and at anchor, he has incurred the disapprobation of the President, and that any repetition of such proceedings will be visited with more severe and effective censure. ¶ I have, &c.

William H. Seward.

To Lord Lyons.

No. 1932.

GROSSBRITANNIEN. — Officieller Bescheid der Foreign Office (E. Hammond) an den Eigenthümer des „Peterhoff" (Gourlay), den Handel mit Matamoras betr. —

Foreign Office, April 3, 1863.

No. 1932. Grossbritannien, 3. April 1863.

Sir, — I am now directed by Earl Russell to make you acquainted with the conclusion at which, having considered, in communication with the law officers of the crown, your letter of the 26th of March, requesting to be informed in regard to the right of British vessels to trade with Matamoras, her Majesty's government have arrived. ¶ The government of the United States has clearly no right to seize British vessels *bona fide* bound from this country, or from any other British possession, to the ports of Vera Cruz or Matamoras, or either of them, or *vice versa*, unless such vessels attempt to touch at, or having an intermediate or contingent destination to, some blockaded port or place, or are carriers of contraband of war, destined for the Confederate States; and in any admitted case of such unlawful capture, her Majesty's government would feel it their duty promptly to interfere, with a view to obtain the immediate restitution of the ship and cargo, with full compensation, and without the delay of proceedings in a prize court. Her Majesty's government, however, cannot, without violating the rules of international law, claim for British vessels navigating between Great Britain and these places any general exemption from the belligerent right of visitation by the cruisers of the United States, nor can they proceed upon any general assumption that such vessels may not so act as to render their capture lawful and justifiable. Nothing is more common than for those who contemplate a breach of blockade, or the carriage of contraband, to disguise their purpose by a simulated destination, and by deceptive papers; and the situation of the ports on the coast of Mexico with reference to the Confederate States is such as to make it not only possible, but in many cases probable, that an ostensible Mexican destination would be resorted to as a cover for objects which would really justify capture. It has already happened in many cases that British vessels have been seized while engaged in voyages apparently lawful, which vessels have afterwards been proved in the prize courts to have been really guilty

of endeavoring to break the blockade, or of carrying contraband to the confederates. ¶ It is the right of the belligerents to capture all vessels reasonably suspected of either of these transgressions of international law, and whenever any such case of capture is alleged, the case cannot be withdrawn from the consideration of the prize court of the captor. After the case has undergone investigation, it is the duty of the prize court to restore any such prizes unlawfully made, with costs and damages, and the proper time for the interference of her Majesty's government is, in general, when the prize courts have refused redress for a capture which the evidence shows to have been unjustifiable. ¶ Her Majesty's government cannot, upon *ex parte* statements, deny the belligerents in this war the exercise of those rights which, in all wars in which Great Britain has been concerned, she had claimed herself to exercise. ¶ I am, &c.

No. 1932. Grossbritannien, 3. April 1863.

E. Hammond.

To Mr. Gourlay.

No. 1933.

GROSSBRITANNIEN. — Ges. in Washington an den Staatssecretär f. d. ausw. Ang. — Die Entscheid. des Prisengerichts in Betreff d. „Peterhoff". —

Washington, April 11, 1863.

No. 1933. Grossbritannien, 11. April 1863.

My dear Sir, — Being unable to wait upon you in person to-day, I think it right to send you without delay the subjoined extracts from a private letter dated yesterday, which I have just received by the afternoon's post from her Majesty's consul at New York: ¶ „I have just returned from the prize commissioner's office, having been requested by the district attorney to attend, if convenient, in reference to the mail bag of Peterhoff. After waiting there some time the district attorney and Mr. Evarts, counsel for the government, appeared and informed me that the court had directed that the mail parcels should be opened in order to see what letters were enclosed relating to the cargo on board the ship, and requested that I would open the packages and select such letters as appeared to me to relate to the cargo on board or to the consignees mentioned in the manifest, and to take charge of the residue with a view to forwarding them to their destination. ¶ With this application I refused to comply, protesting, first, against breaking the official seals of those packages; and objecting, secondly, to assuming the function, rightfully or wrongfully, of selecting letters to be retained, disclaiming, in short, all right to do so, and objecting to the whole proceeding. ¶ Upon this Mr. Evarts replied that he regretted that this should be the means of delaying the forwarding to their destination of letters that no one desired to retain here, and that it would lead to bringing the whole mail into court, and might prejudice innocent parties. I replied that if they thought fit to open the packages I should attend to witness (under protest) their examination, but, as I then regarded my duty, I could not consent to open them myself. ¶ After some conversation Mr. Evarts decided to replace the packages in the bag and leave it to the court to retain the whole mail, which would, nevertheless,

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be opened and examined by order of the court." ¶ Mr. Archibald, it appears, finally came to an agreement with Mr. Evarts to let the matter stand over until Monday (the day after to-morrow). ¶ All these proceedings seem to me to be so contrary to the spirit of your letters to the Secretary of the Navy, of the 31st of October, that I cannot help hoping you will send orders by telegraph to stop them. I shall be much obliged if you will answer this letter as soon as you conveniently can, in order that I on my part may send instructions to the consul. ¶ I should also have liked to speak to you about information which has been given me, that orders have been already sent hence to discharge the cargo of the Peterhoff at once, and take the vessel for the government service. ¶ I cannot but fear that this order, if acted on, may add very materially to the gravity of any questions which may arise from the capture. ¶ In haste, &c.

To Mr. Seward. *Lyons.*

No. 1934.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Ges. in London. — Die mit „Peterhoff" vorzunehmende gerichtliche Procedur betr. —

Department of State, Washington, April 21, 1863.

No. 1934. Vereinigte Staaten, 21. April 1863.

Sir, — Your despatch of April 3 has been received. It is pleasant to know that evidence has been procured in regard to the fitting out of hostile expeditions in England which the British government may be expected to treat with some consideration. ¶ The Peterhoff will be left to the care of the courts. Her mail will be forwarded to its destination unopened. I shall, however, improve the occasion to submit some views upon the general question of the immunities to public mails found on board of vessels visited under the belligerent right of search. The subject is one attended by many embarrassments, while it is of great importance. The President believes that it is not less desirable to Great Britain than it is to the United States, and other maritime powers, to arrive at some regulation that will at once save the mails of neutrals from unnecessary interruption and exposure, and at the same time prevent them from being made use of as auxiliaries to unlawful designs of irresponsible persons seeking to embroil friendly States in the calamities of war. ¶ I am, &c.

To Mr. Adams. *William H. Seward.*

No. 1935.

GROSSBRITANNIEN. — Memorandum des Ges. in Washington an den Staatssecretär der Vereinigten Staaten f. d. ausw. Ang. — Den Handel mit Matamoras betr. —

May, 1863.

No. 1935. Grossbritannien, (9.) Mai 1863.

There is an impression in England in regard to the recent cases of wrong on the part of the American authorities which is still more serious than the wrongs themselves. It is an impression, widely spread and deeply felt, that

it is the intention of the American government, by captures without cause, by delays of adjudication, by wanton imprisonment of the masters and part of the crew of captured vessels, to put a stop to the British trade to Matamoras altogether. ¶ The trade to Matamoras is, however, a perfectly legitimate trade. It is carried on from New York as it is from London and Liverpool. To pretend that some goods carried to Matamoras may be afterwards transported across the frontier to Texas does not vitiate the legitimate character of that trade. How is it possible to say beforehand that certain goods will be consumed in Mexico, and certain other goods will be carried into the so-called Confederate States? It might so happen that all the goods carried from London might be used in Mexico, and all the goods sent from New York might be transported by land to Texas. This is a matter beyond the scope and destination of the sea voyage. If, therefore, it should appear that, from jealousy of trade or unjust suspicion of contraband, or any other motive, the British trade were deliberately and systematically made subject to vexatious capture and arbitrary interference, it is obvious that Great Britain must interfere to protect her flag. While submitting to the most severe interpretation of the law of nations, she cannot allow that, under pretence of that law, hostilities should be carried on against a lawful branch of her commerce.

No. 1935. Grossbritannien, (9.) Mai 1863.

No. 1936.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Ges. in Washington. — Das Vorgehen gegen den „Peterhoff" und Brit. Handel mit Matamoras betr. —

Department of State, Washington, May 12, 1863.

My Lord, — In a conversation which was held between us at this department, on the 7th instant, you represented to me, by direction of your government, that „there is an impression in England, in regard to the recent cases of wrong on the part of American authorities, which is still more serious than the wrongs themselves. It is an impression, widely spread and deeply felt, that it is the intention of the American government, by captures without cause, by delays of adjudication, by wanton imprisonment of the masters and part of the crews of captured vessels, to put a stop to the British trade to Matamoras altogether." You further represented to me, as the views of your government, that the trade to Matamoras is a perfectly legitimate trade; that it is carried on from New York as it is from London and Liverpool; that to pretend that some goods carried to Matamoras may be afterwards transported across the frontier to Texas, does not vitiate the legitimate character of that trade. You asked how it is possible to say beforehand that certain goods will be consumed in Mexico, and certain other goods will be carried into the so-called Confederate States. You argued that it might happen that all the goods carried from London might be used in Mexico, and all the goods sent from New York might be transported by land to Texas, and this is a matter beyond the scope and destination of the sea

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voyage. You added, that if, therefore, it should appear that, from jealousy of trade or unjust suspicion of contraband, or any other motive, the British trade were deliberately and systematically made subject to vexatious capture and arbitrary interference, it is obvious that Great Britain must interfere to protect her flag; and you closed with saying that while submitting to the most severe interpretation of the law of nations, she could not allow that, under pretence of that law, hostilities should be carried on against a lawful branch of commerce. ¶ It was not possible for me to reply at once to a representation so entirely new, so comprehensive, and yet so elaborate, and I contended myself with promising you that it should receive, at an early day, the serious consideration to which it is entitled. ¶ I do not in the least doubt that the impression which you have thus described does exist in England, and I am not prepared to question the fact that it is as deeply and widely prevalent as you have described. I can well enough understand, I think, that pains have been taken to produce that impression by many persons there, some of them being your countrymen, and more of them being mine, to whom the preservation of peace between the United States and Great Britain is a subject of less concern than mercantile speculations, or sinister political designs of their own. And I think I can understand how such persons may, for a time, by extravagant and concerted statements, mislead the public mind of a country even so enlightened and considerate as Great Britain. I must, at the same time, be allowed to say, that as no facts are given in support of this impression, so, I think, it has been produced in the absence of any occurrence sufficient for its justification. ¶ It is only very recently that this especially enlarged Matamoras trade has come to our notice. Suddenly and quietly as palaces, cities, states, and empires rise in the tales of the Arabian Nights under the waving of a wand or the utterance of a spell, that trade rose from a petty barter to a commerce that engaged the mercantile activity of Liverpool and London. Simultaneously roads across the interior of Texas were covered with caravans, the cotton of disloyal citizens in the insurrectionary region became, all at once, the property of the treasonable conspiracy against the Union, and it was hypothecated, by its agents, for a foreign loan to satisfy obligations contracted by them in the fitting out, and equipping and clearing from British ports, naval expeditions to destroy the commerce of the United States. The Peterhoff was about the first discovered of the vessels engaged in this expanded trade. Unusual arts and devices were alleged, with much probability, to have been used by her owners to secure for her immunity as a trader bound to Matamoras with a lawful cargo, when, in fact, she was designed not to reach, or even seek, that port at all, but to discharge her freight into rebel lighters, at the mouth of the Rio Grande, at the order of pretended consignees, who were her passengers, to be conveyed at once to the possession of the insurgents on American, not Mexican soil. She was indicated, moreover, as a forerunner of other fraudulent craft of the same character, organized with regularity, so as to constitute a contraband packet line. She was searched, and, upon probable grounds, was seized and sent into the nearest available port for adjudication. The court at Key West having temporarily risen, she was, in compliance with

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the wishes of the British authorities, as well as of the owners, sent at once to New York. Investigation was promptly instituted there. It has been prosecuted with as much diligence and regularity as were ever practiced in any prize court in any country; and no unredressed complaint has yet been made to this government of any error or abuse which has occurred in the proceedings. But that investigation had only commenced there when the impression was suddenly made in England to which your lordship has called my attention, and that impression was made in advance, and with the tendency, if not the purpose, to discredit the tribunal by anticipating its judgment, and to prevent the exercise, by this government, of all legal right to arrest the new contraband trade. It would be neither possible nor becoming for me, on behalf of the government, to resort to specific explanations, designed to furnish you means for correcting the erroneous and unjust impression which you have brought to my notice, without indicating, on your part, any illegal or unfair act of this government or its agents which could have been concerned in producing that impression. I must be content, therefore, with a denial in the general and in the particular of every one of the designs or dispositions attributed to this government by those persons in England who have made or received the impression which you have described. No other proof need be offered to show that the impression is groundless and erroneous, than the correspondence which has taken place between this department and the British office for foreign affairs, touching the cases of seizure which have occurred throughout the whole war, including the cases of the Dolphin and the Peterhoff, *ex parte* statements of which in England would seem to have had effect in producing the erroneous impression complained of. Thus referring, confidently, to that correspondence, I have now to inform your lordship that every seizure which has been made since the last autumn was made under the just and fair and unquestionably legal instructions of the Secretary of the Navy, which were announced to you by me in my note of the 8th of August last, and that no other or different instructions, open or secret, have been given by this government. As it cannot be assumed by the United States, nor conceded by Great Britain, that all the vessels ostensibly trading between a British port and Matamoras are unlawfully engaged, so it cannot be claimed by Great Britain, nor conceded by us, that some British vessels may not be fraudulently engaged in that ostensible trade in conveying supplies to the insurgents of the United States. This government puts forth its best efforts, in all cases, to prevent abuses of the right or of the power of search, and if these efforts sometimes fail, through the incompetency or misjudgment of an agent, it hastens to correct the involuntary error. It refers the trial of every fact, and of every question of law, to a court recognized by the law of nations, no one of whose judgments has yet been complained of by the British government, and which, therefore, justly lies under no suspicion of either want of intelligence or want of impartiality. ¶ Happily, the operations of the army and the navy on the Mississippi seem now to be likely to break up the inland way, over which the unlawful trade in question was intended to be carried, and to remove the remunerative temptations to a continuance of that injurious and forbidden commerce. Renewed instructions have been given to the com-

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manders of the blockading fleet to practice caution, and conform strictly to the principles of maritime law in conducting searches and seizures. The admiralty is likely soon to pronounce upon the legality of the seizure of the Peterhoff, and in other cases which are in preparation for adjudication. ¶ If, therefore, as the British government assures us with entire frankness and sincerity, as we believe, that government is content to abide by the rules and principles of the law of nations, I see no reason to doubt that the painful impression, to which you have called my attention, will give way to sentiments more accordant with the intentions of the two governments, and more conducive to the preservation of harmony and friendly intercourse between them.

William A. Seward.

To Lord Lyons.

No. 1937.

GROSSBRITANNIEN. — Ges. in Washington an den Staatssecretär der Vereinigten Staaten f. d. ausw. Ang. — Die Congressacte über die „Prisengerichte" betr. —

Washington, May 7, 1863.

No. 1937. Grossbritannien, 7. Mai 1863.

Sir, — the attention of her Majesty's government has been directed to the „Act further to regulate proceedings in prize cases, and to amend various acts of Congress in relation thereto," which was approved by the President on the 3d March last. ¶ Her Majesty's government are advised that the first section of this act is in accordance with the usual practice in such cases, enabling the court to sell when the vessel is likely to become injured, when the cost of keeping it would be disproportioned to its value, or when all the parties interested agree to the sale; but that the second section appears to furnish ground for remonstrance, more especially after the communication which I had the honor to make to you, by command of her Majesty's government, on the 31st December last. ¶ It was pointed out in that communication that the true doctrine with regard to sale before condemnation was that the interests of the owners required it; and her Majesty's government conceive that it is manifest, upon principles of natural justice, that the sale of a vessel of a neutral owner before any sentence of condemnation has been passed upon it, and, consequently, before the owner has been found guilty of any offence against the belligerent, is an act which cannot be fairly justified by reference to necessities of a belligerent, or necessities other than those incident to the state of the neutral vessel itself. The jurisdiction of the prize court, and the duty of the neutral to submit both to it and to the right of the capture, are founded upon the doctrine that he will be fairly tried, not by the captor who seizes him, but by an impartial judge who tries both parties. But it appears to her Majesty's government that if the neutral vessel be sold for the good of the captor or the captor's government before trial, the obligation of the belligerent and the corresponding right of the neutral are much impaired, because compensation in money, however fairly

assessed, on the abstract value of the property, may afford no practical protection to an innocent owner from considerable loss in the particular circumstances of his case. ¶ Her Majesty's government have, therefore, directed me to express to you the concern with which they have observed the extent to which the second section of the recent act of Congress derogates from the usual rights of neutral states, and their hope that it will not be put in force; and her Majesty's government have also instructed me to express their regret that such an enactment should have been made so soon after the communication which I had the honor to address to you, by their desire, on the subject, and without any notice, except a mere formal one, being taken of that communication, nor any mention made of the measure which was about to be adopted. ¶ Her Majesty's government have, moreover, commanded me to point out to you the encouragement which such a clause may afford to making seizures, known, at the time when they are made, to be unwarrantable by law, because the seized vessels may now in every case minister to the necessities of the belligerent, and the captor may, very probably, suppose that he will not be severely rebuked by his government for conduct which, however unjustifiable and intolerable to the neutral, may be regarded as having a patriotic object. ¶ I have, &c.

No. 1937. Vereinigte Staaten, 7. Mai 1863.

Lyons.

To Mr. Seward.

No. 1938.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Ges. in Washington. — Antwort auf dessen Schreiben vom 7. Mai 1863, die Prisengerichte der Vereinigten Staaten betr. —

Department of State, Washington, May 9, 1863.

No. 1938. Vereinigte Staaten, 9. Mai 1863.

My Lord, — I have the honor to acknowledge the receipt of your note of the 7th instant, remonstrating against the 2d section of the act of Congress, approved the 3d of March last, entitled „An act further to regulate proceedings in prize cases, and to amend various acts of Congress in relation thereto." ¶ In reply, I have the honor to acquaint you that the act referred to was not passed at the instance of this department. The Constitution of the United States confers a plenary power upon Congress to make rules concerning captures on land and water. The official opinion of the Attorney General has been requested as to the constitutionality of the section to which her Majesty's government objects, and also as to whether it imparts an extension to the belligerent right of capture which is not warranted by public law. Deferring the further consideration of those questions until that opinion shall have been obtained, I have, &c.

William H. Seward.

To Lord Lyons.

No. 1939.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Geschäftsträger in Washington. — Wichtige Beschränkungen des Seerechts in Bezug auf neutrales Küstengebiet. —

Department of State, Washington, September 16, 1864.

No. 1939. Vereinigte Staaten, 16. Sept. 1864.

Sir, — On the 30th day of May last Commander Trenchard, of the United States steamer Rhode Island, while chasing the insurgent vessel the Margaret and Jessie, in the open sea, off the coast of Eleuthera, in the Bahamas, fired at her at least one cannon-shot, which is alleged to have reached the neutral coast. Her Britannic Majesty's government thereupon complained to this government that the Rhode Island had come and was within the distance of a marine league, or three miles from the shore, when the cannon-ball was fired. On investigating the complaint it did not satisfactorily appear that a cannon-ball was fired by the chaser within the distance of three miles from the land; but, on the other hand, it was established that a Parrott gun, which was discharged, had a range of five miles, and that a ball from it might have reached the neutral shore, although fired outside of the line of maritime jurisdiction. Upon this state of facts her Majesty's government have, through you, expressed a hope that the United States will concur with the British government in opinion that vessels should not fire towards a neutral shore at a less distance than that which would insure shot not falling in neutral waters, or in a neutral territory. To this suggestion I at once replied, by order of the President, that the subject would be brought to the attention of other maritime powers, in order that, if any change of the existing construction of the maritime law should be made, it should first receive the assent of all the great maritime states. ¶ There is no reason to apprehend, that the subject, although now abstractly presented, may soon become a practical question. Spain claims a maritime jurisdiction of six miles around the island of Cuba. In pressing this claim upon the consideration of the United States, Spain has used the argument that the modern improvement in gunnery renders the ancient limit of a marine league inadequate to the security of neutral states. ¶ When it was understood at Paris that an engagement was likely to come off before Cherbourg, between the United States ship-of-war Kearsarge and the pirate Alabama, the French government remonstrated with both parties against firing within the actual reach of the shore by cannon-balls fired from their vessels, on the ground that the effect of a collision near the coast would be painful to France. ¶ For these reasons I think that the subject may now be profitably discussed; but there are some preliminary considerations which it is deemed important to submit to her Majesty's government: First. That the United States, being a belligerent, now when the other maritime states are at peace, are entitled to all the advantages of the existing construction of maritime law, and cannot, without serious inconvenience, forego them. Secondly. That the United States, adhering in war, no less than when they were in the enjoyment of peace, to their traditional liberality towards neutral rights, are not unwilling

to come to an understanding upon the novel question which has thus been raised „in consequence of the improvement in gunnery." But, thirdly. It is manifestly proper and important that any such new construction of the maritime law as Great Britain suggests should be reduced to the form of a precise proposition, and then that it should receive, in some manner, by treaty or otherwise, reciprocal and obligatory acknowledgments from the principal maritime powers. ¶ Upon a careful examination of the note you have addressed to me, the suggestion of her Majesty's government seem to me to be expressed in too general terms to be made the basis of a discussion. Suppose, by way of illustration, that the utmost range of cannon now is five miles, are her Majesty's government understood to propose that the marine boundary of neutral jurisdiction, which is now three miles from the coast, should be extended two miles beyond the present limit? Again, if cannon-shot are to be fired so as to fall not only not upon neutral land, but also not upon neutral waters, then supposing the range of cannon-shot to be five miles, are her Majesty's government to be understood as proposing that cannon-shot shall not be fired within a distance of eight miles from the neutral territory? Finally, shall measure-distances be excluded altogether from the statement, and the proposition to be agreed upon be left to extend with the increased range of gunnery; or shall there be a pronounced limit of jurisdiction, whether five miles, eight miles, or any other measured limit? ¶ I have to request that you will submit these suggestions to your government, to the end that they may define, with necessary precision, the amendment of maritime law which they think important, and upon which they are willing to agree with the other great maritime powers. ¶ I have, &c.

No. 1939. Vereinigte Staaten, 16. Sept. 1864.

William H. Seward.

To Mr. **Burnley.**

No. 1940.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Geschäftsträger in Washington. — Die Militärpflicht Fremder in den Vereinigten Staaten betr. —

Department of State, Washington, October 24, 1862.

Sir, — I have the honor to acknowledge the receipt of your note of yesterday, and, so far as it relates to the liability of aliens who may have exercised the right of suffrage to military duty in this country, to state, in reply, that no doubt is entertained upon that point by this department. Aliens who exercise that right are considered as citizens of the States where they reside, and, as such, are within the purview of the law, which requires all such citizens between the ages of eighteen and forty-five, with certain specific exemptions, as liable to be drafted into the militia. A person may be a citizen of a State, and, as such, entitled to vote therein, without being a citizen of the United States. ¶ I am, &c.

No. 1940. Vereinigte Staaten, 24. Oct. 1862.

William H. Seward.

To Mr. **Stuart.**

No. 1941.

GROSSBRITANNIEN. — Ges. in Washington an den Staatssecretär f. d. answ. Ang. — Die Befreiung Brit. Unterthanen von der Militärpflicht in den Vereinigten Staaten betr. —

Washington, November 29, 1862.

No. 1941. Grossbritannien, 29. Nov. 1862.

Sir, — Mr. Wilkins, her Majesty's consul at Chicago, has forwarded to me copies of correspondence, from which it appears that the governor of Wisconsin has referred to your decision the claims to exemption from compulsory military service put forward by native-born British subjects in that State, who have declared their intention to become citizens of the United States, and have voted at the State elections, but who have not become actual citizens of the United States. I am anxious, therefore, to direct your attention, without delay, to some considerations bearing upon this class of claims. I am aware that you have already expressed an opinion on the question in a note which you did Mr. Stuart the honor to write to him on the 24th of last month. I am, nevertheless, confident that you will be ready to allow all due weight to the arguments adduced by claimants in the State of Wisconsin, as well as in other States in which the laws are similar, in support of their demand for exemption. ¶ The claimants maintain that in the States in which they reside, the law permits them to vote at elections while still continuing to be aliens. They deny that by the exercise of this right of suffrage they become citizens of such States, and declare, on the contrary, that the law not ceasing to regard them as aliens, denies them several of the privileges of citizens; as, for instance, in the State of Illinois, that of holding civil or military office; in the State of Wisconsin, that of serving on juries. They allege, moreover, that the federal Constitution and the federal laws recognize no citizenship of a State which is not at the same time a citizenship of the United States, and they quote, in support of this position, Article IV, Section II, of the Constitution, which provides that „the citizens of each State shall be entitled to all privileges and immunities of citizens of the several States." They affirm that the power of naturalization is exclusively in the federal government; that the power has been exercised by the enactment of statutes prescribing the conditions on which and the proceedings by which an alien is converted into a citizen, and that without these he remains an alien for all intents and purposes of federal legislation. They assert that they have voted under a State law not purporting to naturalize them, but conferring the privilege of voting, *notwithstanding* alienage, and that this proves nothing but that the particular State, for reasons of policy, has thought proper to pass such a law, and that they have availed themselves of it, without professing to relinquish their alien status. ¶ Finally, the claimants maintain that the United States government does not regard them as citizens, nor extend to them protection as such; that, consequently, they are still aliens to the United States, and entitled to claim the protection of their original sovereign; that they are not admitted to the full privileges of citizens, and consequently are not to be subjected to the

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peculiar burdens of citizenship. ¶ Having thus laid before you a summary of the principal arguments adduced by these claimants, I venture again to recommend the matter to your early attention. Mr. Wilkins informs me that the claimants in the State of Wisconsin have been ordered to report at once to the camp of rendezvous, and there await your decision. I am, moreover, beset with applications from men drafted, or apprehensive of being drafted, in other States, who claim exemption on similar grounds. ¶ I have, &c.

Lyons.

To Mr. Seward.

No. 1942.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär f. d. ausw. Ang. an den Kön. Grossbrit. Ges. in Washington. — Antwort auf des Letzteren Note vom 29. Nov. 1862, die Militärpflicht Fremder in den Verein.-St. betr. —

Department of State, Washington, December 3, 1862.

No. 1942. Vereinigte Staaten, 3. Dec. 1862.

My Lord, — I have the honor to acknowledge the reception of your lordship's note of the 29th of November last, which relates to the subject of the liability to draft of aliens, who although not naturalized, have exercised the elective franchise, and I shall with pleasure give just consideration to the views you have presented when I come to the examination of cases in which they practically arise. ¶ I avail myself, &c.

William H. Seward.

To Lord Lyons.

No. 1943.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Ablehnung der von Letzterem gestellten Forderung, die gerettete Mannschaft des „Alabama“ an die Vereinigten Staaten auszuliefern. —

Foreign Office, September 26, 1864.

No. 1943. Grossbritannien, 26. Sept. 1864.

Sir, — I have to acknowledge the receipt of your letter of the 6th of this month upon the subject of the officers and men belonging to the „Alabama“ who were saved by the owner of the „Deerhound“ yacht from drowning, and were afterwards landed at Southampton. It is not my intention in replying to that letter to repeat arguments already exhausted, or to refer to observations already made. It seems to be sufficient that I should state to you the conclusions at which her Majesty's government have arrived, and which differ from those which your government have come to from the same facts. ¶ In the first place, it is undoubtedly true that the „Alabama“ was partly fitted out in a British port. But as soon as evidence was obtained that acts had been committed with regard to that vessel in violation of a British statute, orders were sent to seize her; she, however, escaped from British waters in a state of half equipment under a fraud-

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ulent pretence of making a trial trip. Her equipment was afterwards completed in a foreign port, neither British nor American, and a commission from the so-styled Confederate government was there delivered to Captain Semmes, her commander, himself an American citizen. ¶ 2ndly. I have to state that it appears to her Majesty's government that the commander of the private British yacht the „Deerhound" in saving from drowning some of the officers and crew of the „Alabama" after that vessel had sunk performed a praiseworthy act of humanity, to which, moreover, he had been exhorted by the officer commanding the „Kearsarge," to which vessel the „Deerhound" had in the first instance gone in order to offer to the „Kearsarge" any assistance which, after her action with the „Alabama," she might stand in need of; and it appears further to her Majesty's government that under all the circumstances of the case Mr. Lancaster was not under any obligation to deliver to the captain of the „Kearsarge" the officers and men whom he had rescued from the waves. ¶ But however that may be, with regard to the demand made by you, by instructions from your government, that those officers and men should now be delivered up to the government of the United States as being escaped prisoners of war, her Majesty's government would beg to observe that there is no obligation by international law which can bind the government of a neutral State to deliver up to a belligerent prisoners of war who may have escaped from the power of such belligerent and may have taken refuge within the territory of such neutral. Therefore, even if her Majesty's government had any power by law to comply with the above mentioned demand, her Majesty's government could not do so without being guilty of a violation of the duties of hospitality. ¶ In point of fact, however, her Majesty's government have no lawful power to arrest and deliver up the persons in question. They have been guilty of no offence against the laws of England, and they have committed no act which could bring them within the provisions of the Treaty between Great Britain and the United States for the mutual surrender of offenders, and her Majesty's government are therefore entirely without any legal means by which, even if they wished to do so, they could comply with your above mentioned demand. ¶ 3rdly. With regard to the statement made to the United States government that British authorities afford pecuniary assistance or supplies, or furnish regular payment of wages to persons forming the crew of the „Alabama," for the purpose of enabling them more effectually to carry on hostile operations against the United States, I have to say that her Majesty's government have no knowledge whatever of any such circumstances, and do not believe that there is any foundation for such statements. Private individuals may very possibly have contributed to relieve the necessities of the persons in question, but with the pecuniary contributions of private individuals her Majesty's government have no power to interfere. ¶ I beg further to assure you that her Majesty's government have adopted, and will continue to adopt to the utmost of their lawful power, such measures as may be effective to prevent the preparation, equipment, and outfit of any naval expedition from British shores to make war against the United States. ¶ The detention and seizure of the Birkenhead ironclads, and the discussions in Parliament on that subject, suffice to show that

if complete prevention in this respect has not been attained, all that the government of this free country can do to stop such expeditions has been fully performed. ¶ Lastly, in expressing the regret of her Majesty's government that they should find themselves unable to comply with any application which the government of the United States may have thought themselves entitled to make, I cannot refrain from observing that her Majesty's government have been far more successful in preventing breaches of neutrality with regard to the fitting out of cruizers to take part in the civil war in North America than the government of the United States were in preventing the fitting out of ships of war to aid the South American Republics in their revolt against Spain, which Power then stood in the position of a central authority resisting insurrection. ¶ I am, &c.

No. 1943. Grossbritannien, 26. Sept. 1864.

Russell.

To Mr. Adams.

No. 1944.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Erneute Vorstellungen in Betreff des Deerhound. —

Legation of the United States, London, November 10, 1864.

My Lord, — In regard to the note of the 26th of September last which your Lordship did me the honour to address to me, I now ask permission to make only two observations, preliminary to communicating to you the final instructions of my government. ¶ Your Lordship is pleased to remark that her Majesty's government consider the act of the Commander of the „Deerhound" in interposing to save from drowning Captain Semmes and other officers and men of the „Alabama" as a praiseworthy act of humanity, and, further, that any proposal to restore them to the hands of the victors in the struggle after they had reached the limits of this kingdom as a refuge could be viewed only as involving a violation of the duties of hospitality, of which that government would not be guilty. ¶ I beg leave to recall your Lordship's attention to the original allegation in my note, which was to the effect that Captain Semmes and his companions, after being saved from drowning by the intervention of a British subject, did not reach the limits of this Kingdom as a refugee claiming the right of hospitality, so much as in the position of a belligerent determined to make his escape from capture or death to a neutral territory useful to himself and his cause by initiating further hostile proceedings against his enemy in the very place where he claimed hospitality. I have the strongest reasons for believing that the time which has passed whilst I have had the honour to conduct this correspondence with your Lordship has been spent by the enemies of the United States, British and nativeborn, in fitting out another vessel from this kingdom to do the same sort of piratical work which the „Alabama" did until she was sent to the bottom, which vessel has sailed from here to an agreed place on the ocean where the same sort of equipment and armament which was placed on the „Alabama" has been placed on board of her by another British vessel sent from

No. 1944. Vereinigte Staaten, 10. Nov. 1864.

No. 1944. Vereinigte Staaten, 10. Nov. 1864.

this kingdom for the purpose, and where were transferred Captain Semmes and his companions, the persons saved by the alleged humanity of Mr. Lancaster, for the ultimate object of continuing a war of destruction of life and property against the people of the United States. Whether I am correct or not in these statements, as yet founded only on information of a private character, time will not be long in establishing. Should I prove to be so, your Lordship will, perhaps, pardon me if I persist in maintaining the opinion that neither was the act of Mr. Lancaster in saving Captain Semmes from capture humane, nor is the act of her Majesty's government in protecting him to be viewed as wholly within the limits of that sort of hospitality which it would value in any other nation if practised towards the people of Great Britain. ¶ Your Lordship is pleased further to observe, towards the close of your note, that her Majesty's government have been far more successful in preventing breaches of neutrality with regard to the fitting out of cruizers in this war than the government of the United States were in preventing the fitting out of ships to aid the South American Republics in their revolt against Spain. ¶ Were it expedient at this late day to enter upon an examination of the relative merit of the two governments in two very widely different stages of their condition, in acquitting themselves of their obligations of neutrality under circumstances of difficulty, I am not aware that any result which might be arrived at would have an effect in materially varying the views that should be taken of the shortcomings of either. Very fortunately, I am saved the necessity of further discussion of it, by pointing out to your Lordship a circumstance which seems to have entirely escaped your attention. Whatever may have been the deficiencies of the United States in the instance alluded to, compensation therefore has been made to Spain, and her full and free release has been given under the sanction of her hand to a solemn Treaty. Whenever her Majesty's government shall acknowledge itself prepared to perfect the parallel instance, the example may be cited against the United States, but not until then. ¶ I have now the honour to inform your Lordship that, after a careful consideration of your note of the 26th of September, my government thinks itself entitled to adhere to the several positions it has heretofore assumed in regard to the painful transaction in question, as these have been made known through me to her Majesty's government. I am further directed to express to you the President's concern at the failure thus far of the efforts that have been made to avert a misunderstanding between the two countries upon a point which the American people have come to regard as seriously affecting their national honour and dignity. ¶ Praying, &c.

Charles Francis Adams.

To Earl Russell.

No. 1945.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Weitere Auslassung, die Dazwischenkunft des „Deerhound" betr. —

Foreign Office, November 29, 1864.

No. 1945. Grossbritannien, 29. Nov. 1864.

Sir, — In acknowledging your letter of the 10th instant, I have no wish to prolong the controversy between us on the topic of the „Deerhound," and the rescue of Captain Semmes and other persons from drowning. On the general subject I refer you to the despatch which I have addressed to Lord Lyons, and of which I have had the honour to send you a copy in my note of this day. ¶ There are, however, two points to which I wish to call your attention. ¶ The first is that you have omitted to notice the gist of my answer to your complaint. ¶ The question is not so much whether the act of the Commander of the „Deerhound" in interposing to save from drowning Captain Semmes and other officers and men of the „Alabama" was „a praiseworthy act of humanity," and whether any proposal to restore them to the hands of the victors in the struggle after they had reached the limits of this kingdom could be viewed only „as a violation of the duties of hospitality," — these considerations, I say, are not so much at issue as the question, what is the legal obligation with regard to these matters of her Majesty's government towards the United States? On this question I affirmed: — ¶ 1. That the municipal law of this kingdom gave the government no power or authority to deliver up to the United States Captain Semmes, his officers and men. ¶ 2. That the law of nations does not impose upon the government of the United Kingdom the duty of delivering up to the United States persons in the condition of Captain Semmes, and such of his officers and men as had taken refuge in this kingdom. ¶ The next point regards the differences between the United States and Spain to which I referred. I do not wish to go fully into it now, although I may hereafter do so in correspondence with the government of the United States. I will only point out at present the nature of the complaint made by the Spanish Minister in 1818, and the tenor of the principal Article of Treaty by which the differences between Spain and the United States were adjusted. ¶ Señor de Onis, the Spanish Minister at Washington, wrote, on the 16th of November, 1818, to the United States' Minister to the following effect: — ¶ „Whatever may be the forecast, wisdom and justice conspicuous in the laws of the United States, it is universally notorious that a system of pillage and aggression has been organized in several ports of the Union against the vessels and property of the Spanish nation," &c. ¶ After a long negotiation the complaints of Spain were satisfied by a Treaty signed on the 22nd of February, 1819. Article IX of that Treaty states that „the High Contracting Parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be for ever maintained between them, reciprocally renounce all claim for damages or injuries which they

No. 1945. Grossbritannien, 29. Nov. 1864.

themselves, as well as their respective citizens and subjects, may have suffered until the time of signing this Treaty." ¶ Whether such a Treaty would furnish any elements for negotiation between our two governments I am not prepared to affirm. But it can scarcely be said that this Treaty arrangement for the mutual abandonment of claims constituted a specific grant of compensation to Spain by the United States for injuries complained of by Spain. I am, &c.

Russell.

To Mr. Adams.

No. 1946.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Weiteres in Betreff des Deerhound-Falles. —

Legation of the United States, December 1, 1864.

No. 1946. Vereinigte Staaten, 1. Dec. 1864.

My Lord, — I have had the honour to receive your note of the 29th of November in reply to mine of the 10th of that month on the subject of the „Deerhound." ¶ The reason why I omitted to enter into the discussion of the main points of your Lordship's note of the 26th of September, was that I had been directed by my government to present the conclusion to which it had come from a full examination of them, which appeared to render further argument on my part superfluous; otherwise it would have given me great pleasure to examine the questions: 1st. How far the absence of statute law depending on volition can be urged in extenuation of the omission to fulfil the acknowledged obligations of international law; and 2nd. How far the acknowledgment of the right of asylum by a neutral Power is admitted by international law, to tolerate the harbouring of enemies, abusing that right for the purpose of more effectually injuring the people of a friendly nation. But I forbear because I have no authority to prolong the controversy, and I join with your Lordship in adding that I have no such desire. ¶ With regard to your Lordship's notice of my reference to the Treaty of the United States with Spain as not sustaining the allegation contained in my notes which foreclosed all possibility of drawing the parallel between the action of the two nations which was attempted in your note of the 26th of September, I may only be permitted to repeat my surprise that the passage referred to should even yet have so completely escaped your Lordship's attention. Had you passed from the IXth Article, which you quote, to the Xth, which recapitulates the claims released and surrendered on each side, you would have found on the part of Spain an express renunciation of four classes of claims, the two last of which are in the following words: — „3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York. ¶ „4. To all claims of Spanish subjects upon the government of the United States, arising from unlawful seizures at sea, or within the ports or territorial jurisdiction of the United States." ¶ I pray, &c.

Charles Francis Adams.

To Earl Russell.

No. 1947.

GROSSBRITANNIEN. — Ges. in Washington an den Min. d. Ausw. — Die Beschränkung der Stellung Britischer Consuln in den Vereinigten Staaten betr. —

[Extract.]

Washington, June 14, 1864.

No. 1947. Grossbritannien, 14. Juni 1864.

Mr. Seward has said to me more than once lately that the question which has been raised by Mr. Bernal at Baltimore on the liability of British Consuls to be summoned as witnesses, as well as questions which have come before him respecting the privileges of Consuls of other Powers, have convinced him that it will be proper and indeed necessary, to modify the form of the exequatur granted to foreign Consuls in the United States. ¶ The exequatur as now worded declares the Consul to whom it is granted „free to exercise such functions, powers, and privileges as are allowed to the Consuls of the most favoured nations.“ The form has, Mr. Seward says, been used since the foundation of the Republic. It was not altered when special Consular Conventions were made with some Powers, but Mr. Seward maintains that it was never intended to confer upon the Consuls of Powers without Treaties the peculiar privileges conferred on the score of reciprocity by the special Consular Conventions. ¶ Mr. Seward says that the wording of the exequatur gives a colour to claims by Consuls for rights and privileges to which they are not entitled, and which have, in fact, never been granted them. He desires to put an end to all doubt on the subject, and is, therefore, thinking of issuing a circular giving an authoritative interpretation of the old exequaturs, and of preparing a new form to be used in future. ¶ I have observed to Mr. Seward that less difficulty would probably be occasioned by giving to all Consuls, as the words of the exequatur appear to do, the same rights; that the clearly defined position in which French Consuls are placed by the French Convention appears to me to be very advantageous for avoiding disputes in the present uncertain state of the law and administration in many parts of the country; that with the arbitrary powers now exercised by military officers, it will be very difficult to obtain proper respect and consideration for Consuls, unless some more distinct rule is laid down than that they are to be treated in accordance with international comity and usage. I have, in fact, said that in my opinion the present is a time in which it is particularly necessary, for the preservation of harmony and good feeling, that foreign Consuls shall be placed in a position which will secure their not being treated with discourtesy and disrespect. ¶ Mr. Seward maintains, however, that the Executive Government cannot confer upon Consuls of foreign countries privileges which are not enjoyed by United States' Consuls in those countries. It cannot give, and ought not in his opinion to give, to British Consuls at New York and New Orleans privileges which are not given to United States' consuls at Liverpool and Montreal. ¶ I have not failed to point out to Mr. Seward that there is a considerable difference between the two cases. In her Majesty's dominions all

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Consuls are, I have said, treated alike; we do not give to the Consuls of some Powers privileges which we deny to others. ¶ I doubt, however, whether I have made any mipression on Mr. Seward, and I fear that the position of her Majesty's Consuls is by no means likely to be improved. ¶ It will not, I trust, be practically less good than it is now, for, as your Lordship is aware, her Majesty's Consuls have never in fact enjoyed the special privileges granted by the United States to the Consuls of several other Powers by special Convention.

Lord Lyons.

To Earl Russell.

No. 1948.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Veränderung der Form des Exequatur der Consuln betr. —

Legation of the United States, London, July 30, 1864.

No. 1948. Vereinigte Staaten, 30. Juli 1864.

My Lord, — I am directed by my Government to mention to your Lordship that their attention has been of late drawn to the precise language in the form of exequatur granted to Consuls of foreign States, which has been for some years in use in the United States, and to the risk of embarrassment which appears likely to ensue by further perseverance in the use of it, in the face of the numerous Treaty stipulations extending the limits of Consular jurisdiction which have been entered into in the interval since that form was adopted. ¶ The form as it now stands would seem likely to lead the Consuls of those States with which the United States have not entered into any Treaty engagements, to believe that they could claim to enjoy the extraordinary privileges which have been secured to those of other States by virtue of special Conventions. Such a construction would not be just to the United States, inasmuch as their Consuls in other countries would not, and could not, think themselves entitled to claim any such special advantages in their turn in cases where no reciprocal obligation had been entered into by those countries to grant them. ¶ In order to obviate all danger of misunderstanding for the future, I am instructed to apprize your Lordship that it is the intention of the President so far to modify the language of the exequaturs hereafter to be granted as to adapt it to the precise state of the existing Consular relations with other States, whether by Treaty or otherwise. In the case of the Consuls of Great Britain, with which country no material change by Treaty stipulations has been made since the year 1815, the form adopted in 1816 in the case of Mr. Anthony St. John Baker, will, in the event of new appointments, be resumed. The same form will be used towards the Consuls of all other States with which there are no special Treaty stipulations. In those cases where special Consular Conventions have been negotiated and signed, the form of exequatur will be adapted to the precise stipulations of each Treaty respectively. ¶ Should it be the desire of her Majesty's government at any time to enter into negotiations for a reciprocal extension of special Consular privileges, I am instructed to inform your Lordship that my government is prepared

on its part cheerfully to respond to any overture. ¶ I am further instructed to say that in the meanwhile all existing exequaturs will be continued, but will be continued with the limitations heretofore understood to exist on both sides. If, however, it be desired, those which have been issued may be returned and cancelled, whereupon new ones with accurate annotations will be substituted. ¶ I pray, &c.

No. 1948. Vereinigte Staaten, 30. Juli 1864.

Charles Francis Adams.

To Earl Russell.

Anlage. —

James Madison, President of the United States of America, to all whom it may concern. ¶ Anthony St. John Baker, Esq., having produced to me his Commissions as Consul-General of his Britannic Majesty within the United States, I do hereby recognize him as such, and declare him free to exercise and enjoy such functions, powers, and privileges as are allowed to the Consuls-General of such friendly Powers, between whom and the United States there is no particular agreement for the regulation of the Consular functions. ¶ In testimony whereof, &c.

No. 1949.

GROSSBRITANNIEN. — Ges. in Washington an den Min. d. Ausw. — Einholung von Instructionen, das Exequatur der Brit. Consuln in den Vereinigten Staaten betr. —

[Extract.]

Washington, August 1, 1864.

No. 1949. Grossbritannien, 1. Aug. 1864.

I have the honour to inclose a copy, taken from a newspaper, of an exequatur dated the 26th ultimo, which has been granted by the President to a Consul appointed by the King of Hanover. Your Lordship will perceive that the form hitherto in use has been departed from, and that instead of declaring the Consul „free to exercise such functions, powers, and privileges as are allowed to the consuls of the most favoured nations“, this new exequatur merely declares him to be „free to exercise and enjoy such functions, powers, and privileges as are allowed to Consuls by the Law of Nations, or by the laws of the United States, and existing Treaty stipulations between the governments of Hanover and the United States“. ¶ So far as Hanover is concerned, the change of form is immaterial, for by the IXth Article of the Treaty between that Kingdom and the United States, signed at Hanover on the 10th of June, 1846, it is provided that the Consular Officers of each of the Contracting Parties shall enjoy the same privileges and powers as those of the most favoured nations. But if, as seems probable, it is intended by the United States' government to use in future this new form of exequatur universally, the change will have a very important effect with regard to Great Britain, which is almost the only nation which has

No. 1949. Grossbritannien, 1. Aug. 1864. not made a Treaty with the United States, securing to its Consuls the powers and privileges granted to those of the most favoured nation. There can indeed be little doubt that the change has really been made entirely with reference to Great Britain, and that the immediate cause of it has been the question raised by the summons sent to Mr. Bernal, her Majesty's Consul at Baltimore, to attend as a witness before a Military Commission on the trial of Mr. Richard Hall. ¶ Having in the conversation reported to your Lordship in my despatch of the 14th June, represented to Mr. Seward the objections to making a change, I have had no hope that anything that I could do would increase the effect of those representations, and have deemed it prudent to wait for instructions and to avoid raising the question in the interval.

Lyons.

To **Earl Russell.**

Anlage. —

Extract from the „National Intelligencer" of July 29, 1864.

[Official.]

Abraham Lincoln, President of the United States of America, to all whom it may concern. ¶ Satisfactory evidence having been exhibited to me that Francis A. Hoffmann has been appointed Consul for the kingdom of Hanover, at Chicago, I do hereby recognize him as such, and declare him free to exercise and enjoy such functions, powers, and privileges as are allowed to Consuls by the law of nations or by the laws of the United States, and existing Treaty stipulations between the government of Hanover and the United States. ¶ In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. ¶ Given under my hand at the city of Washington, the 26th day of July, a. d. 1864, and of the independence of the United States of America the eighty-ninth.

Abraham Lincoln.

By the President:

William H. Seward, Secretary of State.

No. 1950.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an d. Kgl. Grossbrit. Min. d. Answ. — Mittheilung über die Verträge der Vereinigten Staaten in Betreff des Consularwesens. —

Legation of the United States, London, August 18, 1864.

No. 1950. Vereinigte Staaten, 18. Aug. 1864. My Lord, — I have the honour to acknowledge the reception of your note of the 6th instant, in reply to mine of the 30th ultimo, apprising you of the change proposed by my government to be made in the form of the exequatur to be granted to Consuls hereafter. Your Lordship does me the favour to ask information as to the nature of the various consular Treaties and Conventions

entered into by the United States and foreign Powers, and their specific stipulations, in order that her Majesty's government may be in a position to judge whether any such negotiation as I was directed to suggest would be expedient. ¶ Without burdening your Lordship with a specification of the different commercial treaties that have been negotiated during the last half-century, I trust that I may meet the object of the inquiry by stating generally, that agreements have been made concerning salvage, the settlement of intestate estates, the inviolability of the consular offices and archives, the exercise of judicial power in certain cases, the arrest, safe keeping and delivery of deserters and mutineers, taxation, exemption from military billeting, and various other matters, considerably enlarging the consular powers and privileges as recognized under the general law of nations. If a more specific account be desired, I trust I may be pardoned for asking permission to refer your Lordship to a note in a work which I have every reason to believe to be very well known, and perfectly accessible in this country; I allude to the „Elements of International Law" by Mr. Wheaton*). I pray, &c.

No. 1950. Vereinigte Staaten, 18. Aug. 1864.

Charles Francis Adams.

To Earl Russell.

No. 1951.

GROSSBRITANNIEN. — Geschäftsträger in Washington an den Min. d. Ausw. — Bitte um Instructionen in Betreff des Brit. Consul zu Baltimore. —

[Extract.]

Washington, September 23, 1864.

I have the honour to forward to your Lordship copies of a despatch and of its inclosures which I have received from Mr. Consul Bernal, relative to a demand on the part of Mr. Seward that he should at once send to him his commission and exequatur, in order that a new exequatur may be issued limiting his official functions to the exercise and enjoyment of such powers and privileges as shall be allowed in future to the consular representative of friendly powers between whom and the United States there is no particular agreement for the regulation thereof. ¶ I propose, should a direct application be made to me on the part of Mr. Seward, simply stating that until I receive specific instructions from her Majesty's government on this subject I must decline authorizing Mr. Consul Bernal to deliver up his exequatur. ¶ Mr. Bernal has forwarded his commission to me, and I now hold it subject to your Lordship's directions.

No. 1951. Gross-britannien, 23. Sept. 1864.

J. Hume Burnley.

To Earl Russell.

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*) Vgl. Note (a.) Zu sec. 4. chap. ii, Part II, „Wheaton's Elements of International Law" pp. 167—174, sixth edition.

No. 1952.

GROSSBRITANNIEN. — Min. d. Ausw. an den Geschäftsträger in Washington. — Instruction in Sachen des Brit. Consul zu Baltimore. —

Foreign Office, October 13, 1864.

No. 1952. Gross-britannien, 13. Oct. 1864.

Sir, — I have received your despatch of the 23rd ultimo respecting an application made by Mr. Seward and Mr. Consul Bernal to return his exequatur, in order that a fresh exequatur may be issued to him, by which his official functions would be limited to the exercise and enjoyment of such powers and privileges as shall be allowed in future to the consuls of powers between whom and the United States there exists no particular agreement on the subject. It appears further from your despatch that Mr. Bernal has forwarded to her Majesty's legation his commission and the exequatur which he has received from the United States' government. ¶ I have now to inform you that I am of opinion that if M. Seward should formally apply to you to return to him Mr. Bernal's exequatur you should do so, and you will, at the same time, state that her Majesty's government expect that the United States will grant to the consuls of her Majesty all the privileges which are enjoyed by United States' consuls in the United Kingdom; and you will add that it does not appear to her Majesty's government to be necessary to make any new convention upon the subject of consuls. ¶ I am, &c.

To Mr. Burnley. *Russell.*

No. 1953.

GROSSBRITANNIEN. — Geschäftsträger in Washington a. d. Min. d. Ausw. — Bericht, die Veränderung des Exequatur der Consuln betr. —

Washington, October 14, 1864.

No. 1953. Gross-britannien, 14. Oct. 1864.

My Lord, — With reference to the summons of Mr. Seward to her Majesty's consuls to deliver up their commissions and exequaturs, I have been informed by Mr. Consul Archibald that the Russian, Prussian, Swedish, and Spanish consuls have received a circular in every respect identical with the one addressed to our own consuls. ¶ They have all, it appears, acted in the same way as our own have done, and forwarded their commissions and exequaturs to their respective Ministers. ¶ I have, &c.

To Earl Russell. *J. Hume Burnley.*

No. 1954.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. in Washington. — Eingehen auf die Forderung der Vereinigten Staaten, die Veränderung der Form des Exequatur der Consuln betr. —

Foreign Office, November 22, 1864.

No. 1954. Gross-britannien, 22. Nov. 1864.

Sir, — Her Majesty's government have had under their consideration your despatches relative to the withdrawal by the United States' government of the exequaturs heretofore issued to her Majesty's consuls in the United States,

and their intended replacement by a form of exequatur in which her Majesty's consuls will be merely declared free to exercise and enjoy such functions, honours, and privileges as are allowed to consuls by the law of nations, or by the laws of the United States and existing treaty stipulations between her Majesty's government and that of the United States, and the attention of her Majesty's government has been more particularly directed to the question whether it would be desirable or possible to enter into a convention with the United States regulating the rights and privileges of the consuls of Great Britain and the United States in the territories of the two countries repectively. ¶ I have now to state to you that the conclusion at which her Majesty's government have arrived is, that the good results which might be expected to flow from such a convention would not be commensurate with the difficulties which might be experienced in giving it practical effect in this country, and that her Majesty's government are consequently of opinion that it would not be desirable to negotiate any such convention with the United States' government. ¶ Under these circumstances you will no longer interpose any objection to the cancelling of the exequaturs which have been called in by the United States' government, and to the issue of fresh exequaturs to her Majesty's consuls in the simple form above specified. ¶ I am, &c.

No. 1954. Grossbritannien, 22. Nov. 1864.

Russell.

To **Lord Lyons.**

No. 1955.

VEREINIGTE STAATEN von **AMERIKA.** — Staatssecretär für d. ausw. Ang. an den Kön. Grossbrit. Ges. in Washington. — Eröffnung, die Veränderung des Exequatur der Britischen Consuln betr. —

Department of State, Washington, December 3, 1864.

My Lord, — I have the honour to acknowledge the receipt of your note of the 1st instant returning to this department, in pursuance of instructions from her Majesty's principal secretary of state, the exequaturs of her Majesty's consuls in the United States, with the exception of that of the consul at San Francisco, which had been received directly from the consul, and informing me that you are desired at the same time to state that her Majesty's government expect that the United States will grant to the consuls of her Majesty all the privileges which are enjoyed by United States' consuls in the United Kingdom, and further that it does not appear to her Majesty's government to be necessary to make any new convention upon the subject of consuls. ¶ I have the honour, in compliance with your lordship's request, to inclose a new exequatur for each of the following consuls residing at the places named: — J. E. Wilkins, Esq., Chicago; E. M. Archibald, Esq., New York; D. Donohoe, Esq., Buffalo; C. E. K. Kortright, Esq., Philadelphia; H. J. Murray, Esq., Portland; F. Lousada, Esq., Boston; F. Bernal, Esq., Baltimore. ¶ I have the honour to inform your lordship, in reply to your note, that this government will cheerfully accord to her Majesty's consuls in the United States all the privileges which are enjoyed by the consuls of the United States in her Majesty's dominions, and that it re-

No. 1955. Vereinigte Staaten, 3. Dec. 1864.

No. 1955. Vereinigte Staaten, 3. Dec. 1864.

ceives without objection the assurance communicated by your lordship in regard to a consular convention. ¶ I have, &c.

William H. Seward.

To Lord Lyons.

No. 1956.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. in Paris. — Die Stellung der Neutralen nach thatsächlicher Niederwerfung der sogenannten Conföderirten Staaten betr. —

Foreign Office, May 30, 1865.

No. 1956. Grossbritannien, 30. Mai 1865.

My Lord, — Your Excellency will have been enabled by my telegram of this morning to prepare M. Drouyn de Lhuys for the communication of the views of her Majesty's government as to the course which, in the present posture of affairs in the United States, may properly be adopted by the governments of England and France. ¶ I have now to instruct your Excellency to acquaint the French Minister that her Majesty's government are of opinion that after the capture of the late President of the so-called Confederate States, and the surrender or dispersion, with one exception, of the armies hitherto kept in the field by those states, neutral nations have no alternative but to consider the civil war as at an end, and to shape their course accordingly. ¶ It might, indeed, have been more satisfactory if the government of the United States had already in this condition of things formally renounced the exercise as regards neutrals of the rights of a belligerent; but the delay of any such renunciation on their part cannot be considered to afford sufficient warrant to neutral powers to continue to admit a belligerent character in a confederation of states which has been actually dissolved. Much embarrassment and complication in the relations between the United States and neutral powers could not fail to result from the perseverance of the latter in such a course, while no advantage could accrue to any party from it. ¶ The Government of the Emperor will probably view the matter in the same light; and under this impression her Majesty's government desire your Excellency to propose that the two governments should agree at once to adopt the following measures, namely: — ¶ To declare, in the first place, that having regard to the actual state of affairs, each government considers the war which has lately prevailed between the United States and the so-called Confederate States of North America to have ceased *de facto*, and on that ground they are prepared to recognize that peace has been restored within the whole territory of which the United States before the commencement of the civil war were in undisturbed possession. ¶ 2. And as a necessary consequence of such recognition, they mean to send, without delay, orders to the respective authorities in all ports, harbours, and waters belonging to each government, whether in Europe or beyond the seas, to refuse permission to any vessel of war carrying a Confederate flag to enter any of

the territorial waters, harbours, or ports of the respective governments. And ¶ 3. To require any Confederate vessels of war which may have already entered the ports of the respective governments on the faith of proclamations of neutrality heretofore issued by such governments, and which, having complied with the provisions of such proclamations, may, at the time when the new Orders reach the authorities of such ports, be actually within the territorial waters, ports, or harbours of such governments, forthwith to depart therefrom; on the understanding, however, that on the occasion of their departure the rule heretofore enforced in regard to the prohibition of pursuit within twenty-four hours by a cruizer of the United States, lying at the time within any such waters, ports, or harbours, shall then, and for the last time, be maintained in their favour. Her Majesty's government are of opinion that this last-mentioned mode of proceeding in regard to Confederate vessels of war is required by a due regard for national good faith and honour, and they cannot anticipate any objection being made to it on the part of the government of the United States, when the ground on which it is adopted is explained to that government. ¶ If the imperial government should concur in the course which I have thus sketched out, her Majesty's government will, for themselves, instruct her Majesty's minister at Washington to make it known, without delay, to the government of the United States, and will also communicate it to the minister of the United States in London; sending, at the same time, instructions to all British authorities in the ports of the United Kingdom, and in those of her Majesty's colonies and possessions beyond the seas, to act in conformity with it. ¶ But her Majesty's government propose, in making this communication to the government of the United States, and to the minister of those states in London, to add that they have decided on the measures indicated, under the full persuasion that the government of the United States will, on their part, at once desist from exercising towards neutrals the rights of blockade and of search and detention of neutral vessels on the high seas which can be lawfully exercised by belligerents alone, and which a power not engaged in warfare cannot, under the law of nations, assume to exercise. ¶ Your Excellency will inform me with as little delay as possible, and by telegraph, whether the French government concur in the course thus submitted for their consideration; and that no misapprehension may exist on the part of M. Drouyn de Lhuys as to the exact purport of the proposal, you will furnish him with a copy of this despatch. ¶ It is very desirable that the several steps required for carrying it into execution should be taken without delay. But I trust the French government will be able at once to concur in the measures now proposed. ¶ I am, &c.

Russell.

To **Earl Cowley.**

No. 1957.

GROSSBRITANNIEN. — Ges. in Paris an den Min. d. Ausw. — Ansichten der Französischen Regierung über die nach Besiegung der Conföderirten Staaten einzunehmende Stellung der Neutralen. —

[Extract.]

Paris, May 31, 1865.

No. 1957. Grossbritannien, 31. Mai 1865.

I waited upon M. Drouyn de Lhuys by appointment this afternoon, and after reading to him your lordship's despatch of yesterday's date, proposing the withdrawal of the belligerent rights hitherto conceded by Great Britain and France to Confederate cruizers, I placed a copy of it in his hands. ¶ M. Drouyn de Lhuys said that having been made aware of the views of her Majesty's government by the prince de la Tour d'Auvergne, he had already expressed through that ambassador his concurrence in their proposals, but he had suggested the addition of a further slight concession to such Confederate vessels as might still find themselves in French or British ports, namely, that they might be disarmed and sold. ¶ I asked M. Drouyn de Lhuys whether this additional concession might not give rise to difficulties with the United States. Might not the United States' government state with reason that the war having been brought to an end by the complete discomfiture and surrender of the Confederates, all property lately belonging to the latter reverted to the United States? It seemed to me that the power of selling ships lately in the Confederate service must now be vested in the United States' government. ¶ M. Drouyn de Lhuys seemed to attach value to this observation.

Earl Cowley.

To Earl Russell.

No. 1958.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. in Paris. — Weitere Erörterung der Rechtsfrage in Bezug auf Schiffe der sogenannten Conföderirten Staaten. —

Foreign Office, June 2, 1865.

No. 1958. Grossbritannien, 2. Juni 1865.

My Lord, — With reference to the point raised by you in your conversation with M. Drouyn de Lhuys, reported in your despatch of the 31st instant, I have to state to your Excellency that I am advised by the law officers of the crown that it is a correct proposition of law that if, upon the complete cessation of hostilities, any ships which at the time of such cessation were the property of the Confederate government, and have not been lawfully transferred to any other owner, are found within her Majesty's territories, such ships may be claimed as public property by the government of the United States. But every such claim, if made and resisted by any counter-claimant, must be decided in the ordinary course of law by the civil tribunals. Each such case may depend upon

mixed questions of law and fact, and it is not necessary, nor would it be expedient, for her Majesty's government in any of their public acts to refer to the possible occurrence of questions of this nature. ¶ I am, &c.

No. 1958. Grossbritannien, 2. Juni 1865.

Russell.

To Earl Cowley.

No. 1959.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. in Washington. — Die völkerrechtlichen Folgen der Beendigung des Bürgerkrieges der Vereinigten Staaten betr. —

Foreign Office, June 2, 1865.

No. 1959. Grossbritannien, 2 Juni 1865.

Sir, — I received, on the 25th ultimo, your despatch of the 10th ultimo, inclosing a copy, taken from a newspaper, of a proclamation issued by the President of the United States on that day, declaring, among other matters, that „armed resistance to the authority of this government", namely, the government of the United States, „may be regarded as virtually at an end; and the persons by whom that resistance, as well as the operations of insurgent cruizers, were directed, are fugitives or captives." ¶ On the day following the receipt of your despatch, intelligence reached this country of the capture of President Davis by the military forces of the United States. ¶ In this state of things her Majesty's government lost no time in communicating with the government of the Emperor of the French as to the course which should be pursued by the two governments; and while these communications were in progress, I received officially from Mr. Adams, on the 30th ultimo, a copy of the President's proclamation of the 10th. ¶ It would, indeed, have been more satisfactory if the government of the United States had accompanied the communication of the President's proclamation with a declaration that they formally renounced the exercise as regards neutrals of the rights of a belligerent; but her Majesty's government considered that, in the existing posture of affairs, the delay of any formal renunciation to that effect did not afford to neutral powers sufficient warrant for continuing to admit the possession of a belligerent character by a confederation of states which had been actually dissolved. The late President of the so-called Confederate States has been captured, and transported as a prisoner to Fort Monroe; the armies hitherto kept in the field by the Confederate States have, for the most part, surrendered or dispersed; and to continue to recognize those States as belligerents would not only be inconsistent with the actual condition of affairs, but might lead to much embarrassment and complication in the relations between neutral powers and the government of the United States. ¶ Her Majesty's government have accordingly, after communication with the government of the Emperor of the French, determined to consider the war which has lately prevailed between the United States and the so-called Confederate States of North America to have ceased *de facto*; and, on that ground, they recognize the re-establishment of peace within the whole territory of which the United States, before the commencement of the civil

No. 1959. Grossbritannien, 2. Juni 1865.

war, were in undisturbed possession. ¶ As a necessary consequence of this recognition, her Majesty's government will forthwith send to her Majesty's authorities in all ports, harbours, and waters belonging to her Majesty, whether in the United Kingdom or beyond the seas, orders henceforth to refuse admission into any such ports, harbours, and waters, of any vessel of war carrying a Confederate flag, and to require any Confederate vessels of war which, at the time that the orders may be received by her Majesty's authorities, may have already entered such ports, harbours, and waters, on the faith of proclamations heretofore issued by her Majesty, and which, having complied with the provisions of such proclamations, may be actually within such ports, harbours, and waters, forthwith to depart from the same. ¶ But in adopting this decision as regards Confederate vessels of war found within British ports, harbours, and waters, when the orders are received by her Majesty's authorities, her Majesty's government consider that a due regard for national good faith and honour requires that her Majesty's authorities should be instructed that any Confederate vessels of war so required to depart should, on their departure, have the benefit of the prohibition heretofore enforced against their being pursued within twenty-four hours by a cruizer of the United States lying at the time within the same port, harbour, and waters, and that such prohibition should be then and for the last time maintained in favour of such Confederate vessels of war. ¶ Her Majesty's government cannot anticipate any objection being made by the government of the United States to this reserve, when the ground on which it is adopted is explained to that government. ¶ Her Majesty's government have, however, thought it right to provide for the contingency of the commander of any Confederate vessel of war which may be found in any port, harbour, or waters of her Majesty's dominions at the time when these new orders are received by her Majesty's authorities, or may enter such port, harbour, or waters within a month after these new orders are received, desiring to divest his vessel of her warlike character, and to assume the flag of any nation recognized by her Majesty's government as in a state of peace with her Majesty; and in such a case, her Majesty's authorities will be authorized to allow the commander of the vessel to do so, and, after disarming her, to remain without a Confederate flag within British waters, at his own risk in all respects; in which case such commander will be distinctly apprized that he is to expect no further protection from her Majesty's government, except such as he may be entitled to in the ordinary course of the administration of the law in time of peace. The rule as to twenty-four hours would not be applicable to the case of such vessel. ¶ I have to instruct you to lose no time in making known to the government of the United States, by communicating to the secretary of state a copy of this despatch, the course of action on which her Majesty's government have decided, and which they doubt not will be agreeable to the government of the United States. But in making this communication to the secretary of state, you will add that her Majesty's government have adopted this course under the full persuasion that the government of the United States will, on their part, at once desist from exercising towards neutrals the rights of blockade, and of search and detention of neutral vessels on the high seas, which

can be lawfully exercised by belligerents alone, and which a power not engaged in warfare cannot under the law of nations assume to exercise. ¶ I am, &c.

Russell.

To Sir F. Bruce.

No. 1959. Grossbritannien, 2. Juni 1865.

No. 1960.

VEREINIGTE STAATEN von AMERIKA. — Staatssecretär für die ausw. Ang. an den Kön. Grossbrit. Ges. in Washington. — Erwiderung auf die vorausgehende englische Depesche nebst Vorstellung gegen die von der Brit. Regierung beabsichtigten Modalitäten in Bezug auf die Aufnahme von Schiffen der sogenannten Conföderirten Staaten in Britischen Häfen.—

Department of State, Washington, June 19, 1865.

No. 1960. Vereinigte Staaten, 19. Juni 1865.

Sir, — Due consideration has been given to a despatch which Earl Russell addressed to you on the 2nd of June instant, and of which, on the 14th instant, you were so kind as to leave a copy at this department. The President is gratified by the information which that paper contains, to the effect that her Majesty's government have determined to consider the war which has lately prevailed between the United States and the insurgents of this country to have ceased *de facto*, and that her Majesty's government now recognize the re-establishment of peace within the whole territory of which the United States were in undisturbed possession at the beginning of the civil war. ¶ The President is also gratified to learn from Earl Russell's despatch that her Majesty's government will forthwith send to her Majesty's authorities in all ports, harbours, and waters belonging to her Majesty, whether within the United Kingdom or beyond the seas, orders henceforth to refuse admission into any such ports, harbours, and waters of any vessel of war carrying the insurgent flag, and to require any insurgent vessels of war, which after the time that the orders may be received by her Majesty's authorities may have already entered such ports, and which having complied with the previous proclamations of the British government, may be actually within such ports, harbours, and waters, forthwith to depart from the same. ¶ It is with regret, however, that I have to inform you that Earl Russell's despatch is accompanied by some reservations and explanations which are deemed unacceptable by the government of the United States. It is hardly necessary to say that the United States do not admit what they have heretofore constantly controverted, that the original concession of belligerent privileges to the rebels by Great Britain was either necessary or just, or sanctioned by the law of nations. ¶ The correspondence which took place between this government and that of her Majesty at an early stage of the insurrection show that the United States deemed the formation of a mutual engagement by Great Britain with France, that those two powers would act in concert in regard to the said insurrection to be an unfriendly proceeding, and that the United States therefore declined to receive from either of those powers any communication which avowed the existence of such an arrangement. I have therefore now to regret that Earl Russell has thought it necessary to inform this government that her Majesty's

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government have found it expedient to consult with the government of France upon the question whether her Majesty's government will now recognize the restoration of peace in the United States. ¶ It is a further source of regret that her Majesty's government avow that they will still continue to consider that any United States' cruizer, which shall hereafter be lying in a British port, harbour, or waters, shall be detained twenty-four hours, so as to afford an opportunity for an insurgent vessel, then actually being within the said port, harbour, or waters, to gain the advantage of the same time for her departure from the same port, harbour, or waters. ¶ It is further source of regret that her Majesty's government have deemed it proper to make the additional reservation in favour of insurgent vessels of war, that for the period of a whole month which shall elapse after the new orders now to be issued by her Majesty's government shall have been received by the said authorities, any insurgent vessel which may be found in or which may enter any port, harbour, or waters of her Majesty's dominions, and which may desire to divest itself of its warlike character, and to assume the flag of any nation recognized by her Majesty's government with which her Majesty is at peace, will be allowed to do so; and further, that such vessels after disarming themselves will be permitted to remain in such port, harbour, or waters without an insurgent flag, although the twenty-four hours' rule will not be applicable to the cases of such vessels. Far from being able to admit the legality or justice of the instructions thus made, it is my duty to inform your Excellency that, in the first place, the United States cannot assent to an abridgment of reciprocal hospitalities between the public vessels of the United States and those of Great Britain. So long as her Majesty's government shall insist upon enforcing the twenty-four hours' rule before mentioned of which the United States have so long and, as they think, so justly complained, the United States must apply the rame rule to public vessels of Great Britain. ¶ Again, it is my duty further to state, that the United States cannot admit, and on the contrary they controvert and protest against, the decision of the British government, which would allow vessels of war of insurgents or pirates to enter or to leave British ports, whether for disarmament or otherwise, or for assuming a foreign flag or otherwise. As to all insurgent or piratical vessels found in ports, harbours, or waters of British dominions, whether they entered into such ports, harbours, or waters, before or after any new orders of her Majesty's government may be received by any authority of her Majesty's government established there, this government maintains and insists that such vessels are forfeited to and ought to be delivered to the United States upon reasonable application in such cases made, and that if captured at sea under whatsoever flag by a naval force of the United States, such capture will be lawful. ¶ Notwithstanding, however, the exceptions and reservations which have been made by her Majesty's government, and which have been herein considered, the United States accept with pleasure the declaration by which her Majesty's government have withdrawn their former concession of a belligerent character to the insurgents, and this government further freely admits that the normal relations between the two countries being practically restored to the condition in which they stood before the civil war, the right to search British vessels

has come to an end by an arrangement satisfactory in every material respect between the two nations. ¶ It will be a source of satisfaction to this government to know her Majesty's government have considered the views herein presented in a spirit favourable to the establishment of a lasting and intimate friendship between the two nations. ¶ I have, &c.

No. 1959. Vereinigte Staaten, 19. Juni 1865.

William H. Seward.

To Sir F. Bruce.

No. 1961.

GROSSBRITANNIEN. — Min. d. Answ. an den Ges. in Washington. — Rechtfertigung des in Bezug auf die Schiffe der sogenannten Conföderirten beabsichtigten Verfahrens. —

Foreign Office, July 6, 1865.

No. 1961. Gross-britannien, 6. Juli 1865.

Sir, — I have received and laid before the Queen your despatch of the 19th of June, with a copy of Mr. Seward's note on the subject of the cessation of belligerent rights. ¶ Her Majesty's government are sorry to find that the reservations and explanations which accompanied the orders of the 2nd of June are deemed unacceptable by the government of the United States. ¶ Her Majesty's government did not expect, indeed, that the United States, after the course they have hitherto taken, would now acknowledge that the original concession of belligerent rights was either necessary or just, or sanctioned by the law of nations. ¶ Her Majesty's government, however, having, in common with all the maritime powers of Europe, acknowledged the belligerent rights of blockade on the part of the United States, and having recognized the existence of a belligerent against whom that right was exercised in conformity, as they are convinced, with the law of nations and the practice of centuries, could not be expected on their part to shrink from the consequences of the course they had deliberately adopted. Her Majesty's government, therefore, considered that a due regard for national faith and honour required that any Confederate vessel of war called upon to depart from her Majesty's ports, harbours, or waters should have the benefit of the twenty-four hours' rule. But you will observe to Mr. Seward that this rule is then to be enforced for the last time. ¶ Consequently no Confederate vessel of war, taking advantage of this rule, could ever again have the benefit of it. ¶ Her Majesty's government have, in a like spirit, allowed that vessels lying in her Majesty's harbours or waters, or which, during the space of a month, shall come into these harbours or waters, shall be permitted to disarm and assume a peaceful character. Otherwise vessels at sea, ignorant of the termination of the war, might be driven without coals or sails to perish on the neighbouring rocks, or to founder at sea. Such inhospitality would not become the character of the nation for good faith and honour, or for humanity. ¶ But you will observe that her Majesty's government have instructed their authorities in distant ports distinctly to apprise the commander of any such Confederate vessel, that he is to expect no further protection from her Majesty's government, except such as he

No. 1961. Gross-britannien, 6. Juli 1865.

may be entitled to in the ordinary course of the administration of the law in time of peace. The twenty-four hours' rule would not be applicable to such case. ¶ The government of the United States will, therefore, be entitled to maintain that such vessels are forfeited, and ought to be delivered to the United States upon reasonable application in such cases made. Only such application must be made good in a British court of law if the vessel is found in British waters. ¶ In the case of a vessel captured at sea by a naval force of the United States, under whatever flag, the claim ought to be made good in a court of law of the United States. ¶ Part of these inclosures consist of despatches to and from Paris. Her Majesty's government never can admit that, in presence of a great war which interrupted and destroyed a friendly and useful commerce extending along 3000 miles of the American coast — a war reducing great numbers of industrious families of both nations to poverty, and afflicting a whole continent — the governments of England and France should not, as far as possible, act in concert, in pursuance not of any formal engagement, but of a mutual understanding. ¶ Her Majesty's government, however, are gratified to find that the United States no longer claim the belligerent right to search British vessels, and that the normal relations of the two countries are practically returned to the condition in which they stood before the civil war. ¶ Her Majesty's government trust that these explanations, founded upon views which her Majesty's government have maintained in a spirit of just neutrality, will prove to be favourable to the establishment of a lasting and intimate friendship between the two nations. ¶ I am, &c.

Russell.

To **Sir F. Bruce.**

No. 1962.

FRANKREICH. — Officielle Note des „Moniteur Universel" vom 10. Juni 1865, betr. die Behandlung südstaatlicher Schiffe in franz. Häfen nach Beendigung des amerikanischen Bürgerkrieges. —

No. 1962. Frankreich 10. Juni 1865.

Lorsque la guerre éclata au sein de l'Union américaine, le Gouvernement de l'Empereur résolut d'observer une stricte neutralité, et, par une déclaration en date du 10 juin 1861, il notifia les dispositions applicables aux navires belligérants qui entreraient dans nos ports, ainsi que les défenses et recommandations tracées aux sujets français, conformément aux lois de l'Empire et aux prescriptions du droit des gens. En adoptant cette détermination, le Gouvernement de Sa Majesté reconnaissait un fait préexistant, c'est-à-dire la lutte établie entre deux parties du territoire de l'Union, lutte dans laquelle étaient, de part et d'autre, observées les maximes ordinaires de la guerre, soit pour le traitement et l'échange des prisonniers, soit pour les droits à exercer quant aux pavillons neutres. ¶ La situation étant aujourd'hui changée, et le gouvernement fédéral ayant fait connaître son intention de ne plus exercer à l'égard des neutres les droits qui résultaient pour lui de l'état de guerre, le Gouvernement de l'Empereur n'a

pas cru devoir plus longtemps reconnaître de belligérants dans les États-Unis d'Amérique. ¶ En conséquence, des ordres ont été donnés pour que les bâtiments qui se présenteraient comme navires confédérés ne soient plus désormais reçus dans les eaux territoriales ou dans les ports français du continent ou des colonies, et que le pavillon confédéré ne puisse plus y être arboré. ¶ Quant à ceux de ces navires qui se trouveraient dans les ports de l'Empire au moment où ces ordres y parviendront, ils devront en sortir, et le Gouvernement de l'Empereur fera observer, pour la dernière fois, à leur égard, la règle aux termes de laquelle un intervalle d'au moins vingt-quatre heures doit être mis entre le départ de tout bâtiment de guerre de l'un des belligérants, et le départ subséquent de tout navire de guerre de l'autre belligérant.

No. 1962. Frankreich 10. Juni 1865.

No. 1963.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär d. Ausw. an den Gesandten in London. — Die Stellung der Vereinigten Staaten zu den von den s. g. Conföderirten contrahirten Staatsschulden. —

Department of State, Washington, March 13, 1865.

No. 1963. Vereinigte Staaten, 13. März 1865.

Sir, — An impression is understood to prevail in Europe, especially among the holders of the insurgent loan, for which cotton was pledged as security, that, in the event of the restoration of peace in this country, this government will assume the public debts of the insurgents, or certainly the particular debt referred to. It is believed, however, that no impression could be more erroneous. There is no likelihood that any of that debt will be assumed or recognized by the United States Government. It is advisable, therefore, that by any proper means at your command you should undeceive the public in England on this point. ¶ I am, &c.

William H. Seward.

To Mr. Adams, *London.*

No. 1964.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär d. Ausw. an den Gesandten in London. — Principielle Stellung der Vereinigten Staaten, zu den s. g. Conföderirten zugehörig gewesenem Eigenthum, ausgesprochen aus Veranlassug eines Urtheils des Englischen Court of Chancery. —

Department of State, Washington, Aug. 10, 1865.

No. 1964. Vereinigte Staaten, 10. Aug. 1865.

Sir, — I have the honour to acknowledge the receipt of your despatch, No. 1022, together with papers which contain an interlocutory decree which has been made by the Vice-Chancellor in the suit of the United States against Priolean and others, which suit was instituted for the recovery of 1356 bales of cotton. The Vice-Chancellor is understood to have affirmed the title of the

No. 1964. Vereinigte Staaten, 10. Aug. 1865.

United States to the property in question. It is with his judgment, and not with the reasons he assigns for such judgment, that the United States are concerned. In this view of the subject, it might seem proper for this government to leave the subject unnoticed. The frankness, however, which ought to be practised in the proceedings of States requires an explanation of the views which this government has taken of the questions which the Vice-Chancellor has discussed in his reasons before mentioned. The United States do not admit that the combinations of disloyal citizens which have raised the standard of insurrection is now or at any time has been a government *de facto*, or in any sense a political power, capable of taking, giving, holding, or maintaining corporate rights in any form, whether municipal or international. It is true that a different view of the character of the insurgents has seemed to find favour with some portions of the British nation, and even with the British government. It must be remembered, however, that, as often as that antagonistical opinion has been advanced by her Britannic Majesty's government in its intercourse with the United States, it has been firmly, though, as we trust, courteously denied. The United States controvert and deny the declaration of the Vice-Chancellor, that there are „successors" of the rebellion; and, on the contrary, they maintain that they are now, and during all the time of the rebellion have been, just what they were before the rebellion began—a sovereign State absolutely entitled to the regulation and control of all property and persons within the United States, subject only to the limitations of their own constitution. It need hardly be said that the United States will hold themselves under no obligations whatever to accept or to so conform their proceedings to the conditions which the Court of Chancery or any other municipal court of Great Britain may have the presumption to dictate or prescribe in the present or any other legislation. They claim and insist upon the restoration of the cotton now in question; and while they are content to receive it through the decree of the municipal tribunals of Great Britain, they insist upon the absolute right to the same through the action of her Britannic Majesty's government. You may instruct the counsel who are acting in behalf of the United States with the views herein expressed. Her Majesty's government have not in any way made themselves responsible for the position assumed by the Vice-Chancellor, and therefore it would seem not only unnecessary but even improper to bring the subject to the attention of Earl Russell. If, however, you discover that her Majesty's Ministers are labouring under any misapprehension of the views of this government which should need correction, you will supply such correction in a friendly and courteous manner. ¶ I am, Sir, &c.

William H. Seward.

To Mr. Adams, *London.*

No. 1965.

CONFÖDERIRTE STAATEN von **AMERIKA.** — Manifest des Congresses, betr. den Krieg mit den Vereinigten Staaten. —

No. 1965. Vereinigte Staaten, 10. Juni 1864.

Whereas, it is due to the great cause of humanity and civilization, and especially to the heroic sacrifices of their gallant army in the field, that no means consistent with a proper self-respect and the approved usages of nations should be omitted by the Confederate States to enlighten the public opinion of the world with regard to the true character of the struggle in which they are engaged, and the dispositions, principles, and purposes by which they are actuated; therefore,

Resolved by the Congress of the Confederate States of America, — That the following manifesto be issued in their name, and by their authority, and that the President be requested to cause copies thereof to be transmitted to our Commissioners abroad, to the end that the same may be laid before foreign Governments:—

Manifesto of the Congress of the Confederate States of America Relative to the Existing War with the United States.

The Congress of the Confederate States of America, acknowledging their responsibility to the opinion of the civilized world, to the great law of Christian philanthropy, and to the Supreme Ruler of the universe for the part they have been compelled to bear in the sad spectacle of war and carnage which this continent has for the last three years exhibited to the eyes of afflicted humanity, deem the present a fitting occasion to declare the principles, the sentiments, and the purposes by which they have been, and still are, actuated. ¶ They have ever deeply deplored the necessity which constrained them to take up arms in defence of their rights, and of the free institutions derived from their ancestors; and there is nothing they more ardently desire than peace, whensoever their enemy, by ceasing from the unhallowed war waged upon them, shall permit them to enjoy in peace the sheltering protection of those hereditary rights and those cherished institutions. The series of successes with which it has pleased Almighty God in so signal a manner to bless our arms on almost every point of our invaded border since the opening of the present campaign enables us to profess this desire of peace in the interest of civilization and humanity, without danger of having our motives misinterpreted, of the declaration being ascribed to any unmanly sentiment or any mistrust of our ability fully to maintain our cause. The repeated and disastrous checks, foreshadowing ultimate discomfiture, which their gigantic army, erected against the capital of the Confederacy, has already met with, are but a continuation of the same providential successes for us. We do not recur to these successes in any spirit of vain boasting, but in humble acknowledgment of that Almighty protection which has vouchsafed and granted them. ¶ The world must now see that eight millions of people, inhabiting so extensive a territory, with such varied resources, and such numerous facilities for defence as the benignant bounty of nature has bestowed upon us, and animated with one spirit to encounter every sacrifice of ease, of health,

No. 1965. Vereinigte Staaten, 10. Juni 1864.

of property, of life itself, rather than be degraded from the condition of free and independent States, into which they were born, can never be conquered. Will not our adversaries themselves begin to feel that humanity has bled long enough; that tears and blood and treasure enough have been expended in a bootless undertaking, covering their own land, no less than ours, with a pall of mourning, and exposing them far more than ourselves to the catastrophe of financial exhaustion and bankruptcy, not to speak of the loss of their liberties by the despotism engendered in an aggressive warfare upon the liberties of another, and kindred people? Will they be willing, by a longer perseverance in a wanton and hopeless contest, to make this continent, which they so long boasted to be the chosen abode of liberty and self-government, of peace and a higher civilization, the theatre of the most causeless and prodigal effusion of blood which the world has ever seen, of a virtual relapse into the barbarism of the ruder ages, and of the destruction of constitutional freedom by the lawlessness of usurped power? ¶ These are questions which our adversaries will decide for themselves. We desire to stand acquitted before the tribunal of the world, as well as in the eyes of omniscient justice, of any responsibility for the origin or prolongation of a war as contrary to the spirit of the age as to the traditions and acknowledged principles of the political system of America. ¶ On this continent, whatever opinions may have prevailed elsewhere, it has ever been held and acknowledged by all parties that government to be lawful must be founded on the consent of the governed. We were forced to dissolve our Federal connexion with our former associates by their aggressions on the fundamental principles of our compact of union with them; and in doing so we exercised a right consecrated in the great charter of American liberty — the right of a free people, when a government proves destructive of the ends for which it was established, to recur to the original principles, and to institute new guards for their security. The separate independence of the States, as the sovereign and coequal members of the Federal Union, had never been surrendered, and the pretensions of applying to independent communities so constituted and organized the ordinary rules for coercing and reducing rebellious subjects to obedience was a solecism in terms, as well as an outrage on the principles of public law. ¶ The war made upon the Confederate States was, therefore, wholly one of aggression. On our side it has been strictly defensive. Born freemen and the descendants of a gallant ancestry, we had no option but to stand up in defence of our invaded firesides, of our desecrated altars, of our violated liberties and birthright, and of the prescriptive institutions which guard and protect them. We have not interfered, nor do we wish in any manner whatever to interfere, with the internal peace and prosperity of the States arrayed in hostility against us, or with the freest development of their destinies in any form of action or line of policy they may think proper to adopt for themselves. All we ask is a like immunity for ourselves, and to be left to ourselves in the undisturbed enjoyment of those inalienable rights of „life, liberty, and the pursuit of happiness“ which our common ancestors declared to be the equal heritage of all the parties to the social compact. ¶ Let them forbear aggressions upon us, and the

war is at an end. If there be questions which require adjustment by negotiations, we have ever been willing, and are still willing, to enter into communication with our adversaries in a spirit of peace, of equity, and of manly frankness. Strong in the persuasion of the justice of our cause, in the manly devotion of our citizen soldiers, and of the whole body of our people, and above all in the gracious protection of Heaven, we are not afraid to avow a sincere desire for peace on terms consistent with our honour and the permanent security of our rights, and an earnest aspiration to see the world once more restored to the beneficent pursuits of industry and of neutral intercourse and exchanges so essential to its well-being, and which have been so gravely interrupted by the existence of this unnatural war in America. ¶ But if our adversaries, or those whom they have placed in power, deaf to the voice of reason and justice — steeled to the dictates of prudence and humanity by a presumptuous and delusive confidence in their own numbers, or those of their black and foreign mercenaries, shall determine upon an indefinite prolongation of the contest, upon them be the responsibility of a decision so ruinous to themselves and so injurious to the interest and repose of mankind. ¶ For ourselves, we have no fear of the result. The wildest picture ever drawn by a disordered imagination comes short of the extravagance which would dream of the conquest of eight millions of people, resolved with one mind „to die freemen rather than live slaves," and forewarned by the savage and exterminating spirit in which this war has been waged upon them, and by them at avowals of the supporters of the worse than Egyptian bondage that awaits them in the event of their subjugation. With these declarations of our dispositions, our principles, and our purposes, we commit our cause to the enlightened judgment of the world, to the sober reflections of our adversaries themselves, and the solemn and righteous arbitrament of Heaven.

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No. 1966.

CONFÖDERIRTE STAATEN von **AMERIKA.** — Die Commissäre der Südstaaten an den Kais. Franz. Min. d. Ausw. — Ueberreichung des vorausgehenden Manifestes der Conföderirten Staaten.* —

Paris, Nov. 11, 1864.

Sir, — The undersigned Commissioners of the Confederate States of America, in pursuance of the instructions of their government, have the honour to present to your Excellency a copy of a manifesto issued by the Congress of said States with the approval of the President, and of which the President was requested to cause copies to be transmitted to their Commissioners abroad, to the end that the same might be by them laid before foreign governments; they at the same time communicate a copy of the preamble and resolutions of Congress accompanying such manifesto. ¶ The dispositions, principles, and pur-

No. 1966. Conföderirte Staaten, 11. Nov. 1864.

*) Eine gleichlautende Note ist den Cabinetten der übrigen Europäischen Staaten (mit Ausnahme der Pforte) übergeben worden.

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poses by which the Confederate States have been and are still animated are set forth in this paper with all the authority due to the solemn declarations of the legislative and executive branches of their government, and with a clearness which leaves no room for comment or explanation. In a few sentences it is pointed out that „all they ask is immunity from interference with their internal peace and prosperity, and to be left in the undisturbed enjoyment of their inalienable rights of life, liberty, and the pursuit of happiness, which their common ancestry declared to be the equal heritage of all parties to the social compact." Let them forbear aggressions upon us, and the war is at an end. If there be questions which require adjustment by negotiations, they have ever been willing, and are still willing, to enter into communication with their adversaries in a spirit of equity and manly frankness, and commit their cause to the enlightened judgment of the world, to the sober reflection of their adversaries themselves, and to the solemn and righteous arbitrament of Heaven. ¶ The undersigned beg leave most respectfully to invite the attention of the government of his Imperial Majesty to this frank and full explanation of the attitude and purposes of the Confederate States, and will merely remark, in addition, that since the issuing of that manifesto the war has continued to be waged by our enemies with even increased ferocity, a more signal disregard of all the rules of civilised warfare, and more wanton violation of the obligations of international law. ¶ The undersigned, having thus complied with the instructions of their Government, beg &c.

John Slidell. *J. M. Mason.* *A. Dudley Mann.*

To Mr. **Drouyn de Lhuys**, *Paris.*

No. 1967.

GROSSBRITANNIEN. — Min. d. Ausw. an die Commissäre der s. g. Conföderirten Staaten von Amerika. — Erwiderung auf die Mittheilung des südstaatlichen Manifestes. —

Foreign Office, Nov. 25, 1864.

No. 1967. Grossbritannien, 25. Nov. 1864.

Gentlemen, — I have had the honour to receive the copy which you have sent me of the Manifesto issued by the Congress of the so-called Confederate States of America. Her Majesty's government deeply lament the protracted nature of the struggle between the Northern and Southern States of the formerly United Republic of North America. ¶ Great Britain has since 1783 remained, with the exception of a short period, connected by friendly relations with both the Northern and the Southern States. Since the commencement of the civil war, which broke out in 1861, her Majesty's government have continued to entertain sentiments of friendship equally for the North and for the South. Of the causes of the rupture her Majesty's government have never presumed to judge; they deplore the commencement of this sanguinary struggle, and anxiously look forward to the period of its termination. In the meantime they are convinced that they best consult the interests of peace and respect the

rights of all parties by observing a strict and impartial neutrality. Such a neutrality her Majesty has faithfully maintained, and will continue to maintain. — I request you, gentlemen, to accept, &c. *Russell.*

No. 1967. Grossbritannien. 25. Nov. 1864.

To **J. Slidell**, Esq.; **J. Mason**, Esq.; and **A. Dudley Mann**, Esq.

No. 1968.

KIRCHENSTAAT. — Cardinal Staatssecretär an die Commissäre der s. g. Conföderirten Staaten. — Erwiderung auf die Mittheilung des südstaatlichen Manifestes. —

Rome, le 2 décembre 1864.

No. 1968. Kirchenstaat, 2. Dec. 1864.

Honorables messieurs, — M. Sauter m'a remis votre lettre du 11 novembre avec laquelle, suivant les instructions de votre gouvernement, vous avez envoyé une copie du manifeste publié par le congrès des États confédérés et approuvé par le très-honorable président, afin d'appeler sur ce sujet l'attention du gouvernement de Sa Sainteté, auquel vous vous êtes adressés ainsi qu'aux autres gouvernements. ¶ Les sentiments exprimés dans ce manifeste tendant, en réalité, à amener, par des négociations pacifiques, la cessation de cette sanglante guerre qui désole actuellement votre pays et à mettre fin aux désastres qui en sont la conséquence; de plus, comme en cherchant à ouvrir des négociations pour la paix, ces sentiments sont complétement d'accord avec les dispositions et le caractère du chef de l'Église catholique, je n'ai pas hésité un seul instant à placer ce manifeste sous les yeux de Sa Sainteté. ¶ Sa Sainteté, qui a été sincèrement affligée des récits qui lui ont été faits de l'horrible carnage causé par cette lutte obstinée, a reçu avec une vive satisfaction l'expression des mêmes sentiments. Comme vicaire sur la terre de ce Dieu qui est l'auteur de la paix, il désire avec ardeur voir s'apaiser ces colères et la paix se rétablir. Pour en donner une preuve, il a écrit aux archevêques de New-York et de la Nouvelle-Orléans, dès le 18 octobre 1862, afin de les inviter à faire tous leurs efforts pour atteindre ce but sacré. Vous pouvez donc être assurés, honorables messieurs, que Sa Sainteté saisira avec empressement toute occasion favorable qui se présentera de hâter un résultat si désirable, afin que tous les peuples soient unis par les liens de la charité. ¶ En vous instruisant de cette bienveillante disposition du saint-père, je suis, &c. G. Cardinal *Antonelli.*

A MM. **A. Dudley-Mann**, **J.-M. Mason**, **John Slidell**, commissaires des États confédérés de l'Amérique à *Paris*.

No. 1969.

VEREINIGTE STAATEN von **AMERIKA**. — Staatssecretär d. Ausw. an den Gesandten in London, betr. einen misslungenen Verständigungsversuch mit den s. g. Conföderirten Staaten. —

Department of State, Washington, Febr. 9, 1865.

No. 1969. Vereinigte Staaten, 9. Febr. 1865.

Sir, — It is a truism that in times of peace there are always instigations of war; so soon as a war begins, there are citizens who emphatically demand

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negotiations of peace. The advocates of war, after an agitation longer or shorter, generally gain their fearful end, though the war declared is not unfrequently unnecessary and unwise. So peace agitations in time of war ultimately bring about an abandonment of the conflict, sometimes without securing the advantages which were originally expected from the conflict. The agitators for war in time of peace, and for peace in time of war, are not necessarily, or, perhaps, ordinarily, unpatriotic in their purposes or motives. Results alone determine whether they are wise or unwise. The treaty of peace concluded at Guadaloupe Hidalgo was secured by an irregular negotiation under the sanction of the government. ¶ Some of the efforts which have been made to bring about negotiations with a view to end our civil war are known to the whole world, because they have employed foreign as well as domestic agents. Others with whom you have had to deal confidentially are known to yourself, although they have not publicly transpired. Other efforts have occurred here, which are known only to the persons actually moving in them and to this government. I am now to give, for your information, an account of an affair of the same general character which recently received much attention here, and which, doubtless, will excite inquiry abroad. ¶ A few days ago, Francis P. Blair, Esq., of Maryland, obtained from the President a simple leave to pass through our lines without definite views known to the government. Mr. Blair visited Richmond, and on his return he showed to the President a letter which Jefferson Davis had written to Mr. Blair, in which Davis wrote that Mr. Blair was at liberty to say to President Lincoln that Davis was now, as he always had been, willing to send commissioners, if assured they would be received, or to receive any that should be sent; that he was not disposed to find obstacles in forms; that he would send commissioners to confer with the President with a view to a restoration of peace between the two sections, if he could be assured they would be received. The President, therefore, on the 18th day of January, addressed a note to Mr. Blair, in which the President, after acknowledging that he had read the note of Mr. Davis, said that he was, is, and always should be willing to receive any agents that Mr. Davis, or any other influential man now actually resisting the authority of the government, might send to confer informally with the President with a view to the restoration of peace to the people of our common country. ¶ Mr. Blair visited Richmond with this letter, and then again came back to Washington. ¶ On the 29th ult. we were advised from the camp of Lieutenant-General Grant that Alexander H. Stephens, R. M. T. Hunter, and John A. Campbell were applying for leave to pass through the lines to Washington as peace commissioners to confer with the President. They were permitted by the Lieutenant-General to come to his head-quarters to await there the decision of the President. Major Eckert was sent down to meet the party from Richmond at General Grant's head-quarters. The Major was directed to deliver to them a copy of the President's letter to Mr. Blair, with a note to be addressed to them and signed by the Major, in which they were directly informed that they would be allowed to pass our lines if understood as coming for an informal conference upon the basis of the aforenamed letter of the 18th of January to Mr. Blair. If

they should express their assent to this condition in writing, then Major Eckert was directed to give them safe conduct to Fortress Monroe, where a person coming from the President would meet them. It being thought probable, from a report of their conversation with Lieutenant-General Grant that the Richmond party would, in the manner prescribed, accept the condition mentioned, the Secretary of State was charged by the President with the duty of representing this government in the expected informal conference. The Secretary arrived at Fortress Monroe in the night of the 1st day of February. Major Eckert met him on the morning of the 2d of February with the information that the persons who had come from Richmond had not accepted in writing the condition upon which he was allowed to give them conduct to Fortress Monroe. The Major had given the same information by telegraph to the President at Washington. On receiving this information the President prepared a telegram directing the Secretary to return to Washington. The Secretary was preparing at the same moment to so return, without waiting for information from the President, but at this juncture Lieutenant-General Grant telegraphed to the Secretary of War, as well as to the Secretary of State, that the party from Richmond had reconsidered and accepted the condition tendered them through Major Eckert, and General Grant urgently advised the President to confer in person with the Richmond party. Under these circumstances the Secretary, by the President's direction, remained at Fortress Monroe, and the President joined him there on the night of the 2d of February. The Richmond party was brought down the James river in a United States steam transport during the day, and the transport was anchored in Hampton Roads. On the morning of the 3d the President, attended by the Secretary, received Messrs. Stephens, Hunter, and Campbell, on board the United States steam transport River Queen, in Hampton Roads. The Conference was altogether informal. There was no attendance of secretaries, clerks, or other witnesses. Nothing was written or read. The conversation, although earnest and free, was calm and courteous and kind on both sides. The Richmond party approached the discussion rather indirectly, and at no time did they make categorical demands or tender formal stipulations or absolute refusals. Nevertheless, during the Conference, which lasted four hours, the several points at issue between the government and the insurgents were distinctly raised and discussed fully, intelligently, and in an amicable spirit. What the insurgent party seemed chiefly to favour was a postponement of the question of separation, upon which the war is waged, and a mutual direction of the efforts of the government as well as those of the insurgents to some extrinsic policy or scheme for a season, during which passions might be expected to subside and the armies be reduced, and trade and intercourse between the people of both sections be resumed. It was suggested by them that through such postponement we might now have immediate peace, with some not very certain prospect of an ultimate satisfactory adjustment of political relations between the Government and the States, section or people, now engaged in conflict with it. The suggestion, though deliberately considered, was, nevertheless, regarded by the President as one of armistice or truce, and he announced that we can agree to no cessation

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or suspension of hostilities except on the basis of the disbandment of the insurgent forces and the restoration of the national authority throughout all the States in the Union. Collaterally, and in subordination to the proposition which was thus announced, the anti-slavery policy of the United States was reviewed in all its bearings, and the President announced that he must not be expected to depart from the positions he had heretofore assumed in his proclamation of emancipation and other documents, as these positions were reiterated in his annual message. It was further declared by the President, that the complete restoration of the national authority everywhere was an indispensable condition of any assent on our part to whatever form of peace might be proposed. The President assured the other party, that while he must adhere to these positions he would be prepared, so far as power is lodged with the Executive, to exercise liberality. Its power, however, is limited by the constitution, and, when peace should be made, Congress must necessarily act in regard to appropriations of money and to the admission of representatives from the insurrectionary States. ¶ The Richmond party were then informed that Congress had, on the 31st ult., adopted by a constitutional majority, a joint resolution submitting to the several States the proposition to abolish slavery throughout the Union, and that there is every reason to expect that it will be accepted by three-fourths of the States, so as to become a part of the national organic law. ¶ The Conference came to an end by mutual acquiescence, without producing an agreement of views upon the several matters discussed or any of them. Nevertheless, it is perhaps of some importance that we have been able to submit our opinions and views directly to prominent insurgents, and to hear them in answer in a courteous and not unfriendly manner. ¶ I am, &c.

William A. Seward.

To Mr. **Adams**, *London.*

Anmerkung. — Aus der Mittheilung des Präsidenten Lincoln an den Congress, welche sich sehr ausführlich über die formellen Vorgänge vor der Conferenz verbreitet, verdient folgende Aufzeichnung über den Inhalt erwähnt zu werden: „On the morning of 3d the three gentlemen, Messrs. Stephens, Hunter, and Campbell, came aboard of our steamer, and had an interview with the Secretary of State and myself of several hours' duration. No question of preliminaries to the meeting was then and there made or mentioned. No other person was present, no papers were exchanged or produced, and it was in advance agreed that the conversation was to be informal and verbal merely. On our part the whole substance of the instructions to the Secretary of State, hereinbefore recited, was stated and insisted upon, and nothing was said inconsistent therewith; while, by the other party, it was not said that in any event or on any condition would they ever consent to reunion; and yet they equally omitted to declare that they would so consent. They seemed to desire a postponement of that question and the adoption of some other course first, which,

as some of them seemed to argue, might or might not lead to reunion, but which course we thought would amount to an indefinite postponement. The conference ended without result."

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No. 1970.

CONFÖDERIRTE STAATEN von **AMERIKA**. — Botschaft des Präsidenten an den Congress zu Richmond, betr. einen Verständigungsversuch mit den Vereinigten Staaten. —

Execution-office, Richmond, Febr. 6, 1865.

No. 1970. Conföderirte Staaten, 6. Febr. 1865.

To the Senate and House of Representatives of the Confederate States of America.

Having recently received written notification which satisfied me that the President of the United States was disposed to confer informally with unofficial agents that might be sent by me with a view to the restoration of peace, I requested the Hon. Alex. H. Stephens, the Hon. R. M. T. Hunter, and the Hon. John A. Campbell to proceed through our lines, and to hold conference with Mr. Lincoln or such persons as he might depute to represent him. I herewith submit, for the information of Congress, the report of the eminent citizens above named, showing that the enemy refused to enter into negotiations with the Confederate States, or any one of them separately, or to give to our people any other terms or guarantees than those which the conqueror may grant, or to permit us to have peace on any other basis than our unconditional submission to their rule, coupled with the acceptance of their recent legislation, including an amendment to the constitution for the emancipation of all the negro slaves, and with the right on the part of the Federal Congress to legislate on the subject of the relations between the white and black population of each State. Such is, as I understand, the effect of the amendment to the constitution which has been adopted by the Congress of the United States.

Jefferson Davis.

Anlage. — Report of the Peace Commissioners. — To the President of the Confederate States. —

Richmond, Febr. 5, 1865.

Sir, — Under your letter of appointment of the 28th ult., we proceeded to seek an „informal conference" with Abraham Lincoln, President of the United States, upon the subject mentioned in the letter. The conference was granted, and took place on the 30th ult., on board of a steamer anchored in Hampton Roads, where we met President Lincoln and the Hon. Mr. Seward, Secretary of State of the United States. It continued for several hours, and was both full and explicit. We learned from them that the message of President Lincoln to the Congress of the United States in December last explains clearly and frankly his sentiments as to the terms, conditions, and method of proceeding by which peace can be secured to the people, and we were not informed that they would

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be modified or altered to obtain that end. We understood from him that no terms or proposals of any treaty or agreement looking to an ultimate settlement would be entertained or made by him with the authorities of the Confederate States, because that would be a recognition of their existence as a separate power, which, under no circumstances, would be done; and, for like reasons, that no such terms would be entertained by him from the States separately: that no extended truce or armistice (as at present advised) would be granted or allowed without a satisfactory assurance, in advance, of a complete restoration of the authority of the constitution and laws of the United States over all places within the States of the Confederacy. That whatever consequences may follow from the re-establishment of that authority must be accepted. But that individuals subject to pains and penalties under the laws of the United States might rely upon a very liberal use of the power confided to him to remit those pains and penalties if peace be restored. During the conference the proposed amendments to the constitution of the United States, adopted by Congress on the 31st ult., were brought to our notice. These amendments provide that neither slavery nor involuntary servitude, except for crime, should exist within the United States or any place within their jurisdiction, and that Congress should have power to enforce this amendment by appropriate legislation. Of all the correspondence that preceded the conference herein mentioned and leading to the same, you have heretofore been informed. — Very respectfully, your obedient servants.

Alex. H. Stephens.
R. M. T. Hunter.
J. A. Campbell.

No. 1971.

VEREINIGTE STAATEN von **AMERIKA**. — Inauguraladresse des Präsidenten Lincoln bei Antritt seiner zweiten Präsidentschaft. —

No. 1971. Vereinigte Staaten, 5. März 1865.

Fellow Countrymen, — At this second appearing to take the oath of the Presidential office there is less occasion for an extended address than at first. Then a statement somewhat in detail of the course to be pursued seemed very fitting and proper; now, at the expiration of four years, during which public declarations have constantly been called forth concerning every point and place of the great contest which still absorbs attention and engrosses the energies of the nation, little that is new could be presented. ¶ The progress of our arms, upon which all else chiefly depend, is as well known to the public as to myself. It is, I trust, reasonably satisfactory and encouraging to all. With a high hope for the future no prediction in that regard is ventured. ¶ On the occasion corresponding to this four years ago all thoughts were anxiously directed to an impending civil war. All dreaded it. All sought to avoid it. While the inaugural address was being delivered from this place, devoted altogether to saving the Union without war, the insurgent agents were in the city seeking to

destroy it without war—seeking to dissolve the Union, and divide the effects by negotiating. Both parties deprecated war, but one of them would make war rather than let it perish, and war came. ¶ One-eighth of the whole population were coloured slaves, not distributed generally over the Union, but located in the Southern part. These slaves contributed a peculiar and powerful interest. All knew the interest would somehow cause war. To strengthen, perpetuate, and extend this interest was the object for which the insurgents would rend the Union by war, while the government claimed no right to do more than restrict the territorial enlargement of it. ¶ Neither party expected the magnitude or duration which it has already attained; neither anticipated that the cause of the conflict might cease even before the conflict itself should cease. Each looked for an easier triumph and a result less fundamental and astonishing. Both read the same Bible and pray to the same God. Each invokes His aid against the other. It may seem strange that any man should dare to ask a just God's assistance in wringing bread from the sweat of other men's faces; but let us judge not, that we be not judged. The prayer of both should not be answered; that of neither has been answered fully, for the Almighty has his own purposes. 'Woe unto the world because of offences, for it must needs be that offence come; but woe unto that man by whom the offence cometh'. ¶ If we shall suppose American slavery one of those offences which in the providence of God must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war, as was due to those by whom the offence came, shall we discern that there is any departure from those Divine attributes which believers in the living God always ascribe to Him? Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away; yet if it be God's will that it continue until the wealth piled by bondsmen by 250 years' unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said 3,000 years ago, so still it must be said that the judgments of the Lord are true and righteous altogether, with malice towards none, with charity for all, with firmness in the right. ¶ As God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for whom shall have borne the battle, and for his widow and orphans; to do all which may achieve and cherish a just and a lasting peace among ourselves and with all nations.

No. 1971. Vereinigte Staaten, 5. März 1865.

No. 1972.

VEREINIGTE STAATEN von AMERIKA. — Kriegsminister an den Gesandten in London. — Ermordung des Präsidenten Lincoln. —

(Telegramm via Greencastle per Nova Scotian).

Sir, — It has become my distressing duty to announce to you that last night his Excellency Abraham Lincoln, President of the United States, was assassinated, about the hour of half-past ten o'clock, in his private box at Ford's

No. 1972. Vereinigte Staaten, 15. April 1865.

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Theatre, in the city. The President, about eight o'clock, accompanied Mrs. Lincoln to the theatre. Another lady and gentleman were with them in the box. About half-past ten, during a pause in the performance, the assassin entered the box, the door of which was unguarded, hastily approached the President from behind and discharged a pistol at his head. The bullet entered the back of his head, and penetrated nearly through. The assassin then leaped from the box upon the stage, brandishing a large knife or dagger, and exclaiming, „*Sic semper tyrannis,*" and escaped in the rear of the theatre. Immediately upon the discharge the President fell to the floor insensible, and continued in that state until twenty minutes past seven o'clock this morning, when he breathed his last. About the same time the murder was being committed at the theatre another assassin presented himself at the door of Mr. Seward's residence, gained admission by representing he had a prescription from Mr. Seward's physician, which he was directed to see administered, and hurried up to the third story chamber, where Mr. Seward was lying. He here discovered Mr. Frederick Seward, struck him over the head, inflicting several wounds, and fracturing the skull in two places, inflicting it is feared mortal wounds. He then rushed into the room where Mr. Seward was in bed, attended by a young daughter and a male nurse. The male attendant was stabbed through the lungs, and it is believed will die. The assassin then struck Mr. Seward with a knife or dagger twice in the throat and twice in the face, inflicting terrible wounds. By this time Major Seward, eldest son of the Secretary, and another attendant reached the room, and rushed to the rescue of the Secretary; they were also wounded in the conflict, and the assassin escaped. No artery or important blood vessel was severed by any of the wounds inflicted upon him, but he was for a long time insensible from the loss of blood. Some hope of his possible recovery is entertained. Immediately upon the death of the President notice was given to Vice-President Johnson, who happened to be in the city, and upon whom the office of President now devolves. He will take the office and assume the functions of President to-day. The murderer of the President has been discovered, and evidence obtained that these horrible crimes were committed in execution of a conspiracy deliberately planned and set on foot by rebels under pretence of avenging the South and aiding the rebel cause; but it is hoped that the immediate perpetrators will be caught. The feeling occasioned by these atrocious crimes is so great, sudden, and overwhelming, that I cannot at present do more than communicate them to you. At the earliest moment yesterday the President called a Cabinet meeting, at which General Grant was present. He was more cheerful and happy than I had ever seen him, rejoiced at the near prospect of firm and durable peace at home and abroad, manifested in marked degree the kindness and humanity of his disposition, and the tender and forgiving spirit that so eminently distinguished him. Public notice had been given that he and General Grant would be present at the theatre, and the opportunity of adding the Lieutenant-General to the number of victims to be murdered was no doubt seized for the fitting occasion of executing the plans that appear to have been in preparation for some weeks, but General Grant was compelled to be absent, and

thus escaped the designs upon him. It is needless for me to say anything in regard of the influence which this atrocious murder of the President may exercise upon the affairs of this country; but I will only add that, horrible as are the atrocities that have been resorted to by the enemies of the country, they are not likely in any degree to impair the public spirit or postpone the complete final overthrow of the rebellion. In profound grief for the events which it has become my duty to communicate to you, I have, &c.

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Edwin M. Stanton.

To Mr. Adams, *London.*

No. 1973.

VEREINIGTE STAATEN von **AMERIKA**. — Officieller Bericht über die Uebernahme der Präsidentschaft durch Andrew Johnson. —

On the morning of the 15th Attorney-General Speed waited upon the Hon. Andrew Johnson, Vice-President of the United States, and officially informed him of the sudden and unexpected decease of President Lincoln, and stated that an early hour might be appointed for the inauguration of his successor. The following is a copy of the communication referred to: —

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„Washington City, April 15, 1865.

Sir, — Abraham Lincoln, President of the United States, was shot by an assassin last evening at Ford's Theatre, in this city, and died at the hour of 22 minutes after 7. About the same time at which the President was shot an assassin entered the sick chamber of the Hon. W. H. Seward, Secretary of State, and stabbed him in several places in the throat, neck, and face, severely, if not mortally wounding him. Other members of the Secretary's family were dangerously wounded by the assassin while making his escape. ¶ By the death of President Lincoln the office of President has devolved, under the Constitution, upon you. The emergency of the government demands that you should immediately qualify, according to the requirements of the Constitution, and enter upon the duties of President of the United States. If you will please make known your pleasure, such arrangements as you deem proper will be made.

Your obedient servants,

Hugh M'Culloch, Secretary of the Treasury.
Edwin M. Stanton, Secretary of War.
Gideon Welles, Secretary of the Navy.
William Dennison, Postmaster-General.
J. P. Usher, Secretary of the Interior.
James Speed, Attorney-General."

„To Andrew Johnson, Vice-President of the United States."

Mr. Johnson requested that the ceremony take place at his rooms at the Kirkwoodhouse, in this city, at 10 o'clock in the morning.

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Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, was notified of the fact, and desired to be in attendance to administer the oath of office.

At the above-named hour the following gentlemen assembled in the Vice-President's room to participate in the ceremony: — Hon. Salmon P. Chase, Hon. Hugh M'Culloch, Secretary of the Treasury; Mr. Attorney-General Speed, F. P. Blair, sen., Hon. Montgomery Blair, Senator Foot, of Vermont; Senator Yates, of Illinois; Senator Ramsay, of Minnesota; Senator Stewart, of Nevada; Senator Hale, of New Hampshire; and General Farnsworth, of Illinois.

After the presentation of the above letter, the Chief Justice administered the following oath to Mr. Johnson: —

„I do solemnly swear that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

After receiving the oath, and being declared President of the United States, Mr. Johnson remarked: —

„Gentlemen, I must be permitted to say that I have been almost overwhelmed by the announcement of the sad event which has so recently occurred. I feel incompetent to perform duties so important and responsible as those which have been so unexpectedly thrown upon me. As to an indication of any policy which may be presented by me in the administration of the government, I have to say that that must be left for development as the Administration progresses. The message or declaration must be made by the acts as they transpire. The only assurance that I can now give of the future is by reference to the past. The course which I have taken in the past in connexion with this rebellion must be regarded as a guarantee of the future. My past public life, which has been long and laborious, has been founded, as I in good conscience believe, upon a great principle of right, which lies at the basis of all things. The best energies of my life have been spent in endeavouring to establish and perpetuate the principles of free government, and I believe that the government in passing through its present trials will settle down upon principles consonant with popular rights more permanent and enduring than heretofore. I must be permitted to say, if I understand the feelings of my own heart, I have long laboured to ameliorate and alleviate the condition of the great mass of the American people. Toil and an honest advocacy of the great principles of free government have been my lot. The duties have been mine—the consequences are God's. This has been the foundation of my political creed. I feel that in the end the government will triumph, and that these great principles will be permanently established. In conclusion, gentlemen, let me say that I want your encouragement and countenance. I shall ask and rely upon you and others in carrying the government through its present perils. I feel in making this request that it will be heartily responded to by you and all other patriots and lovers of the rights and interests of a free people."

At the conclusion of the above remarks the President received the kind wishes of the friends by whom he was surrounded. A few moments were de-

voted to conversation. All were deeply impressed with the solemnity of the occasion, and the recent sad occurrence that caused the necessity for the speedy inauguration of the President was gravely discussed. Mr. Johnson is in fine health, and has an earnest sense of the important trust that has been confided in him.

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No. 1974.

VEREINIGTE STAATEN von **AMERIKA.** — Gesandter in London an den Königl. Grossbritannischen Minister d. Ausw. — Benachtheiligung der Ver. St. durch die Anerkennung der Conföderirten als kriegführender Macht Seitens Englands und die Ausrüstung von Schiffen für die Conföderirten in England. —

Legation of the United States, London, April 7, 1865.

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My Lord, — I have the honour to transmit to you a copy of a letter addressed to the Secretary of State at Washington by the Consul of the United States at Rio Janeiro, Mr. Monroe, making a report of the depredations committed upon the commerce of the United States by the vessel known in the port of London as the Sea King, but since transformed into the Shenandoah, by a process already explained in a note which I had the honour to address to your Lordship on the 18th of November last. ¶ I regret to be obliged to add that this same vessel has been, since the date of Mr. Monroe's letter, heard of at Melbourne, from which place further details of similar outrages have been received. The particulars have been communicated to my government, but there has not yet been sufficient time for me to obtain its instructions in regard to them. I cannot doubt, however, that they will be the same in substance at those embraced in the last despatch. ¶ Were there reason to believe that the operations carried on in the ports of Her Majesty's kingdom and its dependencies to maintain and extend this systematic depredation upon the commerce of a friendly people had been materially relaxed or prevented, I should not be under the painful necessity of announcing to your Lordship the fact that my government cannot avoid entailing upon the government of Great Britain the responsibility for this damage. It is impossible to be insensible to the injury that may yet be impending from the part which the British steamer City of Richmond has had in being suffered to transport with impunity from the port of London men and supplies, to place them on board of the French-built steam-ram Olinthe, *alias* Stoerkodder, *alias* Stonewall, which has through a continuously fraudulent process succeeded in deluding several governments of Europe, and in escaping from this hemisphere on its errand of mischief in the other. ¶ I am by no means insensible to the efforts which have already been made, and are yet making, by Her Majesty's government to put a stop to such outrages in this kingdom and its dependencies. Neither can I permit myself to doubt the favourable disposition of her Ministers to maintain amicable relations with the government which I represent. ¶ While perfectly ready to bear testimony to the promptness with which all the numerous remonstrances and representations

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which it has been my painful duty heretofore to submit have been met and attended to by your Lordship, it is, at the same time, impossible for me to dispute the fact that the hostile policy which it is the object of all this labour to prevent has not only not been checked, but is even now going into execution with more and more complete success. ¶ That policy, I trust I need not point out to your Lordship, is substantially the destruction of the whole mercantile navigation belonging to the people of the United States. The nature of the process by which this is coming about may readily be appreciated by a brief examination of the returns of the registered tonnage of her Majesty's kingdom for the last six years. I have the honour to append to this note a tabular statement of the number of merchant-ships built, and of the tonnage owned in the United States, which have been transferred to British owners in the successive years beginning with 1858 and ending in 1864, so far as the materials at hand from the official reports of the two governments can supply the information. ¶ I trust that it will be needless for me to do more than to point out to your Lordship the inference deducible from this statement, to wit,—that the United States' commerce is rapidly vanishing from the face of the earth, and that that of Great Britain is multiplying in nearly the same ratio. Furthermore, it is my painful duty to suggest that this process is going on by reason of the action of British subjects, in co-operation with emissaries of the insurgents, who have supplied from the ports of her Majesty's kingdom all the materials, such as vessels, armament, supplies, and men, indispensable to the effective prosecution of this result on the ocean. So far as I am aware, not a single vessel has been engaged in these depredations excepting such as have been so furnished. Unless, indeed, I might except one or two passenger steamers belonging to persons in New York forcibly taken possession of while at Charleston in the beginning of the war, feebly armed and very quickly rendered useless for any aggressive purpose. It may then, on the face of this evidence, be fairly assumed as true that Great Britain, as a national Power, is in point of fact fast acquiring the entire maritime commerce of the United States by reason of the acts of a portion of her Majesty's subjects engaged in carrying on war against them on the ocean during a time of peace between the two countries. I deeply regret to be constrained to add that every well meant effort of her Majesty's government to put a stop to this extraordinary state of things down to this time has proved almost entirely fruitless. ¶ I would most respectfully invite your Lordship to produce in the history of the world a parallel case to this of endurance of one nation of injury done to it by another without bringing on the gravest of complications. That in this case no such event has followed has been owing, in the main, to a full conviction that her Majesty's government has never been animated by any aggressive disposition towards the United States; but, on the contrary, that it has steadily endeavoured to discountenance and, in a measure, to check the injurious and malevolent operations of many of her subjects. But, while anxious to do full justice to the amicable intentions of her Majesty's Ministers, and on that account to forbear from recourse to any but the most friendly and earnest appeals to reason and to their sense of justice for the rectification of these wrongs, it is

impossible to resist the conviction that heretofore their measures, however well intended, have never proved effective to remedy the evil complained of. Prompt to acquit them of any design, I am reluctantly compelled to acknowledge the belief that, practically, this evil had its origin in the first step taken, which never can be regarded by my government in any other light than as precipitate, of acknowledging persons as a belligerent Power on the ocean before they had a single vessel of their own to show floating upon it. The result of that proceeding has been that the Power in question, so far as it can be entitled to the name of a belligerent on the ocean at all, was actually created in consequence of the recognition, and not before; and all that it has subsequently attained of such a position has been through the labour of the subjects of the very country which gave it the shelter of that title in advance. Neither is the whole case stated even now. The results equally show that the ability to continue these operations with success during the whole term of four years that the war has continued has been exclusively owing to the opportunity to make use of this granted right of a belligerent in the Courts and the ports and harbours of the very Power that furnished the elements of its existence in the outset. In other words, the kingdom of Great Britain cannot but be regarded by the government I have the honour to represent as not only having given birth to this naval belligerent, but, also, as having nursed and maintained it to the present hour. ¶ In view of all these circumstances I am instructed, while insisting on the protest heretofore solemnly entered against that proceeding, further respectfully to represent to your Lordship that, in the opinion of my government, the grounds on which her Majesty's government have rested their defence against the responsibility incurred in the manner hereinbefore stated for the evils that have followed, however strong they might have heretofore been considered, have now failed by a practical reduction of all the ports heretofore temporarily held by the insurgents. Hence the President looks with confidence to her Majesty's government for an early and an effectual removal of all existing causes of complaint on this score, whereby the foreign commerce of the United States may be again placed in a situation to enjoy the rights to which it is entitled on the ocean in peace and safety, free from annoyance from the injurious acts of any of her Majesty's subjects, perpetrated under the semblance of belligerent rights. ¶ I am further instructed to invite the attention of your Lordship to another subject in this immediate connexion. From the beginning of this war the armed vessels of her Majesty have continued to enjoy full and free pratique in the waters of the United States. They have been welcomed in just the same friendly manner as has been heretofore customary when there was no exclusion of the same class of ships of the United States from the waters of Great Britain. It is the opinion of the President that the time has come when it may be asked, not only with strict right, but also with entire comity, when the reciprocity in these hospitalities is to be restored. It is the expectation that the naval force of the United States in European waters will be augmented on or about the beginning of next month, when this question may become one of some interest. I am therefore directed to solicit information from your Lordship as to the

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reception which those vessels may expect in the ports of this kingdom. ¶ I pray, &c.

Charles Francis Adams.

To Earl **Russell.**

Anlage 1. — Bericht des amerikanischen Consul Monroe in Rio de Janeiro vom 29. Nov. 1864 an den Staatssecretär Seward über die Verheerungen der Shenandoah. —

Anlage 2. — Statement of American vessels sold to British subjects, from 1858 to 1864, inclusive:—

Year.	United States' Official Report.		British Official Report.	
	Number of Vessels.	Tonnage.	Number of Vessels.	Tonnage.
Before the War.				
1858 „ „ „ „	33	12,684	—	—
1859 „ „ „ „	49	21,308	—	—
1860 „ „ „ „	41	13,683	Not given.	11,716
	123	47,675	—	11,716
During the War.				
1861 „ „ „ „	126	71,673	Not given.	66,757
1862 „ „ „ „	135	64,578	„	59,103
1863 „ „ „ „	388	252,379	608	328,665
1864 „ „ „ „	106	92,052	—	—
	715	480,682	608	454,525

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GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Erwiderung auf dessen vorausgehende Note, Vergleich des Verhaltens Englands in dem gegenwärtigen Kriege mit dem der Ver. St. bei früheren Gelegenheiten. —

Foreign Office, May 4, 1865.

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Sir, — I have had the honour to receive your note of the 7th of April, forwarding a copy of a letter addressed by the Consul of the United States at Rio de Janeiro to his government upon the proceedings of a vessel called the Sea King or Shenandoah, which vessel you state has since been heard of at Melbourne, whence details have been received of outrages committed by her on the commerce of the United States. You then proceed to say, „Were there any reasons to believe that the operations carried on in the ports of her Majesty's kingdom and its dependencies to maintain and extend this systematic depredation upon the commerce of a friendly people had been materially relaxed or prevented," you would not have had to announce to me „the fact that your government cannot avoid entailing upon the government of Great Britain the responsibility for this

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damage.“ ¶ A British steamer, the City of Richmond, is next alluded to as having been allowed to take supplies from the port of London, and to place them on board a French built steam-ram known as the Stonewall, and you found upon the circumstances to which you have thus alluded a charge against Great Britain, of not only not checking improper depredations on United States' commerce, but of aiming at the destruction of the whole mercantile navigation belonging to the people of the United States; and, while giving credit to her Majesty's government for endeavouring to check illicit proceedings of British subjects, you allege that the measures adopted in this respect by her Majesty's government have never proved effective, and that the evil of which you complain has its origin in the fact that her Majesty's government recognized the persons in arms against the United States as belligerents, and thereby improperly gave them a status which has led to a long continuance of hostilities; but as the ports held by them have fallen into the power of the United States, the President looked with confidence to a removal by her Majesty's government of this ground of complaint. ¶ You conclude by expressing a hope that the ships of war of the United States will be welcomed in British waters in the same friendly manner as has been heretofore customary. ¶ Allow me to observe, in the first place, that I can never admit that the duties of Great Britain towards the United States are to be measured by the losses which the trade and commerce of the United States may have sustained. The question is, not what losses the United States have sustained by the war, but whether in difficult and extraordinary circumstances the government of her Majesty have performed faithfully and honestly the duties which international law and their own municipal law imposed upon them. ¶ Let me remind you that when the civil war broke out so suddenly, so violently, and so extensively, that event, in the preparation of which Great Britain had no share, caused nothing but detriment and injury to her Majesty's subjects. Great Britain had previously carried on a large commerce with the Southern States of the Union, and had procured there the staple which furnished materials for the industry of millions of her people. ¶ Had there been no war the existing treaties with the United States would have secured the continuance of a commerce mutually advantageous and desirable. But what was the first act of the President of the United States? He proclaimed on the 19th of April, 1861, the blockade of the ports of seven States of the Union. But he could lawfully interrupt the trade of neutrals with the Southern States upon one ground only—namely, that the Southern States were carrying on war against the government of the United States; in other words, that they were belligerents. ¶ Her Majesty's government, on hearing of these events, had only two courses to pursue—namely, that of acknowledging the blockade and proclaiming the neutrality of her Majesty, or that of refusing to acknowledge the blockade and insisting upon the rights of her Majesty's subjects to trade with the ports of the South. ¶ Her Majesty's government pursued the former course, as at once the most just and the most friendly to the United States. ¶ It is obvious, indeed, that the course of treating the vessels of the Southern States as piratical vessels, and their crews as pirates, would have been to renounce the character of neutrals, and to take part in the

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war. Nay, it would have been doing more than the United States themselves, who have never treated the prisoners they have made, either by land or sea, as rebels and pirates, but as prisoners of war, to be detained until regularly exchanged. ¶ So much as to the step, which you say your government can never regard „as otherwise than precipitate," of acknowledging the Southern States as belligerents. ¶ It was, on the contrary, your own government which, in assuming the belligerent right of blockade, recognized the Southern States as belligerents. Had they not been belligerents, the armed ships of the United States would have had no right to stop a single British ship upon the high seas. ¶ The next complaint (often repeated, I must admit) is that vessels built in British ports, and afterwards equipped with an armament sent from the British coast, have injured, and, according to your account, almost destroyed, the mercantile marine of the United States. ¶ Now, the only question that can be put on this subject is whether Great Britain has performed faithfully the duties incumbent upon her. I must here ask you to recollect that our Foreign Enlistment Act, as well as your Foreign Enlistment Act, requires proof that the vessel has been or is about to be equipped or armed within our dominions for the purpose of assisting a State or a body of men making war on a State in amity with her Majesty. In the case of the Alabama, which is always referred to as affording the strongest ground of complaint against her Majesty's government, the papers affording evidence of a design to equip the ship for the Confederate service were furnished to me by you on the 22d, and more completely on the 24th of July, 1862. They were reported upon by the law officers on the 29th of that month. But on that very morning the Alabama was taken to sea on the false pretence of a trial trip. ¶ I contend that in that case, as in all others, her Majesty's government faithfully performed their obligations as neutrals. It must be recollected that the Foreign Enlistment Act, though passed in the year 1819, had never been actually put in force, and that it is doubtful whether the evidence furnished by you on the 22d and 24th of July, though it was deemed a sufficient ground for detaining the Alabama, would have been found sufficient to procure a conviction from a jury, or even a charge in favour of condemnation of the vessel from a judge. Again, I repeat, the whole question resolves itself into this—whether the British government faithfully and conscientiously performed their duties as neutrals, or whether they, from any motives whatever, were guilty of a grave neglect of those duties. ¶ Upon this point it might be sufficient for me to appeal to the unprejudicial judgment formed and expressed at the time by Mr. Seward, after every material fact had been communicated to him by your despatches of the 25th and 31st of July and the 1st of August, 1862. Writing to yourself on the 13th of August, 1863, he expressed the President's approval of the action which you had taken with respect to the Oreto and the Alabama (then called „No. 290"); and added, „You will on proper occasion make known to Earl Russell the satisfaction which the President has derived from the just and friendly proceedings and language of the British government in regard to these subjects." ¶ In maintaining this view of our duties, I have the satisfaction of thinking that her Majesty's government are supported by some of the highest authorities of

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the United States. In 1815 a correspondence began between the Ministers representing Spain and Portugal and the United States' government respecting the practice of fitting out privateers in the ports of the United States, and putting them under a foreign flag, and cruising against Spanish commerce. In January, 1817, Señor Onis, Spanish Minister at Washington, says: — „It is notorious that although the speculative system of fitting out privateers and putting them under a foreign flag, one disavowed by all nations, for the purpose of destroying Spanish commerce, has been more or less pursued in all the ports of the Union, it is more especially to those in New Orleans and Baltimore where the greatest violations of the respect due to a friendly nation, and, if I may say so, of that due to themselves, have been committed; whole squadrons of pirates having been out from thence in violation of the solemn treaty existing between the two nations, and bringing back to them the fruits of their piracies without being yet checked in these courses, either by the reclamations I have made, those of His Majesty's consuls, or the decisive and judicious orders issued by the President for that purpose." ¶ It does not appear that any compensation was ever made for any of these seizures. ¶ But the remonstrances of Portugal are still more applicable. ¶ On the 8th of March, 1818, Senhor T. Correa de Serra brought to the knowledge of the United States' government the case of three Portuguese ships which had been captured by privateers fitted out in the United States, manned by American crews, and commanded by American captains, though under insurgent colours, and he demanded satisfaction and indemnification for the injury which had been done to Portuguese subjects, as well as for the insult which had been offered to the Portuguese flag. To this letter the American Secretary of State, after reciting the complaint of the Portuguese Minister, replies as follows: — „The government of the United States having used all the means in its power to prevent the fitting out and arming of vessels in their ports to cruise against any nation with whom they are at peace, and having faithfully carried into execution the laws enacted to preserve inviolate the neutral and pacific obligations of this Union, cannot consider itself bound to indemnify individual foreigners for losses by capture over which the United States have neither control nor jurisdiction. For such events no nation can in principle, nor does in practice, hold itself responsible." ¶ The Secretary of State who signed this despatch bore a name most honourably known in the annals of the United States — the name of Adams. ¶ The remaining events to be noticed in the history of the answer given by the United States to the complaints of Portugal during the wars of South America, and by Great Britain to the United States in the present war, may be recorded without any fear of comparison on the part of the government of her Majesty. ¶ On the 20th of April, 1818, the amended Act, known as the „American Foreign Enlistment Act," was passed. ¶ On the 24th of November of that year the Portuguese Minister, being asked by Mr. Adams to „furnish a list of the names of the persons chargeable with a violation of the laws of the United States, in fitting out and arming a vessel within the United States for the purpose of cruising against the subjects of his Sovereign, and of the witnesses by whose testimony the charge could be substantiated,"

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replied to the following effect: — ¶ He had found with sorrow multiplied proofs that many of the armed ships which had committed depredations on the property of Portuguese subjects were owned by citizens of the United States, had been fitted in ports of the Union, and had entered in several ports of the Union captured ships and cargoes by unlawful means. Many of these citizens of the United States had the misfortune of believing that they did a meritorious action in supporting foreign insurrections, and offered great difficulties in the way of every prosecution instituted by a foreign Minister. Prosecutions were ordered by the government of the United States, but did not appear to have had much effect in checking the depredations complained of. ¶ In March, 1819, the Portuguese Minister alleges that, in contrast to the Spanish insurgents, who had ports and a long line of coast at their disposal, Artigas, the Chief whose flag was borne by United States' privateers, was wandering with his followers in the inland mountains of Corrientes. „The Artigan flag,“ he continues, „which has not a foot length of sea shore in South America where it can show itself, is freely and frequently waving in the port of Baltimore; Artigan cockades were frequently met with in that city in the hats of American citizens unworthy of that name.“ ¶ In another note dated the 23d of November, 1819, the Portuguese Minister says: — „I do justice to, and am grateful for, the proceedings of the Executive in order to put a stop to these depredations, but the evil is rather increasing. I can present to you, if required, a list of 50 Portuguese ships almost all richly laden, some of them East Indiamen, which have been taken by these people during the period of full peace. This is not the whole loss we have sustained, this list comprehending only those captures of which I have received official complaints. The victims have been many more, besides violations of territory by landing and plundering ashore with shocking circumstances.“ ¶ „One city alone on this coast,“ he says, „has armed 26 ships which prey on our vitals, and a week ago three armed ships of this nature were in that port waiting for a favourable occasion of sailing for a cruise.“ ¶ In July, 1820, the Portuguese Minister proposed that the United States should appoint commissioners to confer and agree with commissioners of the Queen of Portugal in what reason and justice might demand. ¶ But Mr. Adams again says that for wrongs committed in the United States' territory Portuguese subjects have a remedy in the courts of justice, but „for any acts of the citizens of the United States committed out of their jurisdiction and beyond their control the government of the United States is not responsible.“ ¶ To this most just principle, which was again referred to by Mr. Secretary Clayton, and maintained against the government of Portugal to this hour, the United States must be held still to adhere. No matter how many rich Portuguese ships were taken, no matter even what flag was borne by the vessels which took them, for these acts of the citizens of the United States acting as the captains, officers, and crews of those cruisers, the United States' government declared itself not responsible. Nor was that government induced to depart from that ground by the urgent representations of the Portuguese Minister in his letter to Mr. Webster of the 7th of November, 1850, that „by due diligence on the part of the government and the officers of the United

States the evil might have been prevented," and that „the fitting out of these vessels was not checked by all the means in the power of the government, but that there was a neglect of the necessary means of suppressing these expeditions." ¶ With regard to Spain the case was somewhat different, as the United States had many outstanding claims against the government of Spain; and, on the other hand, the claims of Spain were rested upon the interpretation placed by her on her treaty with the United States. The claims of the United States were used as a set-off against the claims of Spain, on account of the depredations committed by the United States' cruisers commanded by United States' captains, and in respect of other matters; and both orders of claims were renounced and abandoned by a treaty between Spain and the United States, concluded on the 22d of February, 1819. ¶ Before I refer to the conduct of Great Britain during the present civil war, I must for a moment allude to an address of President Monroe in regard to the South American insurrection: — „The revolutionary movement in the Spanish provinces in this hemisphere attracted the attention and excited the sympathy of our fellow-citizens from its commencement." Such is the statement of President Monroe in his special Message of the 8th of March, 1822. It must be acknowledged that in this country the gallantry of the people of the Southern States, in their endeavours to give those States an independent position in the world, excited a large amount of sympathy. It must be acknowledged also that the desire of large profits from the sale of cargoes induced many of the Queen's subjects to engage in blockade running. But, on the other hand, it must be said that no British subject appears to have commanded a Confederate cruiser, while United States' citizens seem frequently to have acted as captains of the privateers which, under the flag of Buenos Ayres or some other South American State, committed depredations on Spanish and Portuguese commerce. Nor was the vigilance of her Majesty's government at fault when, as in the case of the steam rams built at Birkenhead for a Confederate agent, they were fully convinced that vessels of war were being constructed for purposes hostile to the United States. Indeed, so decided and so effective was the action of the government in detaining the vessels called the El Tousson and El Monassir that it appears by the published Parliamentary reports that a member of Parliament charged the Government with having done—and with having done on their own jconfession — what was illegal and unconstitutional, without law, without ustification, and without excuse. Unfounded as that charge was, yet coming, as it appears, from high authority, it is obvious that nothing but the intimate conviction that those vessels were intended for Confederate vessels of war, that unless detained they would attempt to break the blockade of the United States' squadrons, and that such an act might have produced the gravest complications, could have sustained the government under the weight of charges thus urged. ¶ Let us compare this case, in which her Majesty's government detained and seized the ships, with that of the Shenandoah to which you refer, in which they did not interfere. ¶ The Shenandoah was formerly the Sea King, a merchant or passage steamship, belonging to a mercantile company. She was sold to a merchant, and soon afterwards cleared for China as a merchant ship;

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not a tittle of evidence was ever brought before her Majesty's government by you or any one else to show that she was intended for the service of the Confederates. Had it been alleged even that her decks were stronger than usual, apparently for the purpose of carrying guns, it might have been plausibly answered that the China seas abounded with pirates, and that guns were necessary in order to drive them off. ¶ But it is said that guns and men were sent to meet a Confederate vessel at sea. So far as guns are concerned, this is not an offence against our laws, nor am I aware of any authority of international law according to which the British government could be bound to prevent it. So far as men are concerned, they could not be interfered with, without evidence of an intention or engagement to serve as Confederate seamen, and no such evidence was ever offered to her Majesty's government. What if these guns and men were sent in a vessel which cleared for Bombay? Would it have been right for her Majesty's government, without evidence, to seize such a vessel? Would not proceedings thus unauthorized by law or by any legal grounds of suspicion have been loudly and universally condemned? It is true that arms were sent out to the Olinde, a French vessel, and that the Sea King, having changed its character at sea, appeared afterwards as a Confederate ship of war. But in the words of Mr. Adams, in 1818, „for such events no nation can in principle, nor does in practice, hold itself responsible.“ With regard to the export of arms sent by individuals in this country to vessels on the high seas, it must not be forgotten that the government and Courts of the United States have always upheld the legality of this traffic. On the subject of certain memorials of British subjects sent to the Secretary of State of the United States during the Revolutionary War, Mr. Jefferson says, — „We have answered that our citizens have always been free to make, send, or export arms; that it is the constant occupation and livelihood of some of them. To suppress their callings—the only means, perhaps, of their subsistence—because a war exists in foreign and distant countries with which we have no concern, would hardly be expected. It would be hard in principle and impossible in practice.“ ¶ This, be it recollected, was not the opinion of Mr. Jefferson alone; he wrote by the direction of General (then President) Washington. ¶ With respect to the alleged destruction of the mercantile navigation of the United States, it must be noted that it has been common to transfer American merchant ships, without change of cargo or of crew, nominally to British owners in order to avoid the higher rates of insurance payable during war. With peace the mercantile marine of the United States will, I nave no doubt, be at least as numerous as before. ¶ I am happy to see that you declare yourself by no means insensible to the efforts which her Majesty's government have made, and are still making, to put a stop to such outrages on this kingdom and its dependencies, and that you cannot permit yourself to doubt the favourable disposition of the Queen's Ministers to maintain amicable relations with the government of the United States; nay, further, you state that the avoidance of the gravest of complications „has been owing in the main to a full conviction that her Majesty's government has never been animated by any aggressive disposition towards the United States, but, on the contrary, that it has steadily endeavoured to discounten-

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ance and in a measure to check the injurious and malevolent operations of many of her subjects." The question, then, really comes to this:—Is her Majesty's government to assume or be liable to a responsibility for conduct which her Majesty's government did all in its power to prevent and to punish?—a responsibility which Mr. Adams on the part of the United States' government in the case of Portugal positively, firmly, and justly declined. ¶ Have you considered to what this responsibility would amount? Great Britain would become thereby answerable for every ship that may have left a British port and have been found afterwards used by the Confederates as a ship of war; nay, more, for every cannon and every musket used by the Confederates on board any ship of war if manufactured in a British workshop. ¶ I now come to that part of your letter which relates to the future. ¶ The late successes of the United States' armies give us every reason to hope for a speedy termination of the war. In such case the restrictions which have been imposed upon the vessels of the United States as belligerents will, of course, cease. In such case also it is to be presumed the cruisers and privateers of the Confederates will be at once sold, and converted into merchant vessels. But the present state of affairs does not allow me to speak with certainty upon this point. ¶ The questions remain, however, first, whether the United States' vessels of war will be now allowed to come into the harbours of her Majesty's dominions without other restrictions than those usual in times of peace; and another question closely connected with it—namely, whether the Confederates are still to be treated as belligerents. ¶ My answers are the following:— In regard to the first question, her Majesty's government are quite willing that vessels of war of the United States shall be treated in the ports of her Majesty in the same manner as her Majesty's vessels of war are treated in the ports of the United States, with this single exception —that, if an enemy's vessel of war should come into the same port, the vessel which shall first leave the port shall not be pursued by its enemy till 24 hours shall have elapsed. ¶ Before answering the second question, I wish to know whether the United States are prepared to put an end to the belligerent rights of search and capture of British vessels on the high seas? Upon the answer to this question depends the course which her Majesty's government will pursue. ¶ All that I can do further is to assure you that her Majesty's government, who have lamented so sincerely the continuance of this painful and destructive contest, will hail with the utmost pleasure its termination, and will view with joy the restoration of peace and prosperity in a country whose well-being and happiness must always be a source of satisfaction to the Sovereign and people of these realms. ¶ I am, &c.

Russell.

To Mr. Adams.

No. 1976.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Königl. Grossbritannischen Minister d. Ausw. — Weitere Ausführung der Grundlage zu Entschädigungsansprüchen. —

Legation of the United States, London, May 20, 1865.

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My Lord, — I have had the honour to receive your note of the 4th inst., in reply to mine of the 7th of last month. I have already taken the earliest opportunity to transmit a copy to my government. If it should not so happen that the course of events dispose of the matter beforehand, I shall probably receive instructions which will enable me to give the information which your Lordship appears to desire. ¶ Pending the receipt of these, however, I must ask pardon for observing that in the notice which you have been pleased to take of the arguments submitted in my note, you have so far extended the field of discussion as to make it my duty to proceed in it still further. ¶ And here I would beg leave to remark that, if I am to judge of the general statement made of my position by the abstract of it presented to me by your Lordship, I must have very grievously failed in offering the logical sequence of my propositions as distinctly as I had desired to do. This will render necessary another effort to place them before you in the following brief recapitulation. It was my wish to maintain —

1. That the act of recognition by her Majesty's government of insurgents as belligerents on the high seas before they had a single vessel afloat was precipitate and unprecedented.

2. That it had the effect of creating these parties belligerents after the recognition, instead of merely acknowledging an existing fact.

3. That this creation has been since effected exclusively from the ports of her Majesty's kingdom and its dependencies, with the aid and co-operation of her Majesty's subjects.

4. That during the whole course of the struggle in America, of nearly four years in duration, there has been no appearance of the insurgents as a belligerent on the ocean, excepting in the shape of British vessels, constructed, equipped, supplied, manned, and armed in British ports.

5. That during the same period it has been the constant and persistent endeavour of my government to remonstrate in every possible form against this abuse of the neutrality of this kingdom, and to call upon her Majesty's government to exercise the necessary powers to put an effective stop to it.

6. That although the desire of her Majesty's Ministers to exert themselves in the suppression of these abuses is freely acknowledged, the efforts which they made proved in a great degree powerless, from the inefficiency of the law on which they relied, and from their absolute refusal when solicited to procure additional powers to attain the object.

7. That by reason of the failure to check this flagrant abuse of neutrality the issue from British ports of a number of British vessels, with the aid of

the recognition of their belligerent character in all the ports of her Majesty's dependencies around the globe, has resulted in the burning and destroying on the ocean a large number of merchant vessels and a very large amount of property belonging to the people of the United States.

8. That, in addition to this direct injury, the action of these British built, manned, and armed vessels has had the indirect effect of driving from the sea a large portion of the commercial marine of the United States, and to a corresponding extent enlarging that of Great Britain, thus enabling one portion of the British people to derive an unjust advantage from the wrong committed on a friendly nation by another portion.

9. That the injuries thus received by a country which has meanwhile sedulously endeavoured to perform all its obligations, owing to the imperfection of the legal means at hand to prevent them, as well as the unwillingness to seek for more stringent powers, are of so grave a nature as in reason and justice to constitute a valid claim for reparation and indemnification.

In making this recapitulation it is no part of my design to go over any of the reasoning which has already been exhausted in the correspondence which I have had the honour heretofore to hold with your Lordship. I shall endeavour to confine myself to such points as may have been raised by the new matter embodied in the note to which I now have the honour to reply. ¶ With regard to my first proposition, I have ventured to affirm that the recognition of the insurgents as belligerents on the 13th of May was precipitate and unprecedented. That it was precipitate is clear from the fact that not a single vessel entitled to the character was at that moment afloat on the ocean, and that even on the land the war itself had barely commenced in the bloodless capture of Fort Sumter. That it was unprecedented I must infer that your Lordship does not design to dispute, since it appears that you have not availed yourself of my invitation to furnish me with any examples. ¶ Nevertheless, I have endeavoured, so far as I was able, myself to investigate the matter in order that I might be fully satisfied in regard to the solidity of the reasons which your Lordship has done me the favour to offer for so suddenly taking this step. I have found in history an abundance of instances of insurrection, either temporarily or ultimately successful; in most of them there was much more of necessity pressing upon neutral Powers for deciding the points to which your Lordship has referred in your note; but I have failed to discover a single occasion upon which any of the Powers made a decision in anticipation of a case of immediate necessity presenting itself to their attention. ¶ In this connexion I may, perhaps, be pardoned for reminding your Lordship of the circumstances connected with the breaking out of the revolution in the British colonies in America. It could not then be said that cruisers and merchant vessels did not at once swarm on the ocean. Neither was the other contingency absent of the decision of her Majesty's government to close some ports and to blockade others. Yet I do not perceive that France, however well inclined to do so, did actually take a single step to declare, by proclamation, these insurgents as belligerents at any time. The course which it did take, the same which I find to have been usual,

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was to await the arrival of an insurgent vessel in her ports. When that event did happen, a decision was made. It was received as belonging to a belligerent. The same course was likewise taken in Holland. But I must beg leave to remind your Lordship that even this quiet proceeding was instantly denounced by His Majesty's government in both cases as a wrong demanding reparation, and was made one of several grounds for which, in the end, Great Britain made war successively against each nation. ¶ But the immediate recognition of the insurgents by a proclamation was not the only unprecedented proceeding resorted to by her Majesty's government to create a status which had no actual existence. In advance of that step it now appears that measures were taken and overtures were made to effect a species of diplomatic negotiation with the so-called authorities at Richmond, for the purpose of gaining their adhesion to the four points of the celebrated Treaty of 1856. Considering that the party applied to had not then, and has not at any moment since ever been able to boast of sailing a single vessel of its own construction, equipment, and manning, this might very naturally have been construed by it as equivalent to offering to create for it a status in the ports of the proposing party, applying in advance of any idea of profiting by such a privilege. I do not intend to affirm that her Majesty's government, in taking this extraordinary step, had any design to hold forth an invitation. On the contrary, I disclaim any such idea. But it must be obvious to your Lordship that some responsibility is often incurred for the injurious consequences naturally flowing from human action, even though there may not be the presence of evil intention. From the evidence already before the public, it does not admit of a doubt that these proceedings, taken together, did have the effect of encouraging the insurgents to a degree which led to the prosecution of their subsequent audacious policy. ¶ The insurgents ultimately became a belligerent on the ocean solely by reason of the facilities furnished them in her Majesty's ports. The fact appears to me to be indisputable; for down to the close of the war, with the exception mentioned in my former note, of two passenger steamers stolen from the citizens of New York, not a single effective vessel of theirs has been seen on the ocean, excepting the six or seven which have been wholly supplied in and from this kingdom. Of the preparation of these steamers for the purpose indicated, I have endeavoured from time to time to furnish your Lordship with such evidence as I had it in my power to obtain. For a considerable time I found myself unable to stem the combined effect of the secret sympathy of her Majesty's officers in the port of Liverpool and of your Lordship's very natural incredulity based on their reports in procuring more than formal attention to my representations. Thus it was that the gunboat Oreto got away, and soon after became the armed privateer the Florida. All the statements I had the honour to submit proved true to the letter, but nevertheless the facility with which the evasion had been accomplished furnished the strongest encouragement to the subsequent great extension of the field of operations. ¶ It was at that moment that a deliberate policy was adopted by the insurgents, under which a base was made in this Kingdom for all the extensive warlike operations since conducted by them. The officers were then

established, and all the ramifications of a bureau regularly organized. ¶ The next example was that of gunboat No. 290, afterwards well known as the cruiser the Alabama. I refer to this case once more only because it has been particularly referred to by your Lordship. I do so for the purpose of expressing my dissent from the statement made in your note in regard to certain important particulars. Your Lordship is pleased to state that the papers affording evidence of a design to equip this ship for the Confederate service were furnished to you on the 22d and on the 24th of July. This is certainly true. But your Lordship will be kind enough to remember that my first note, giving information as to the character of that vessel, was dated on the 23d of June—that is, one month proceeding. On the 4th of July, the Commissioners of her Majesty's Customs, to whom that representation was referred, made a report admitting the fact that the vessel was certainly built for a ship of war, but affirming that the evidence presented of her being intended for the so-called Confederate government was not sufficient to justify a detention. The concluding sentence in their letter was in these words. I pray permission to ask your Lordship's particular attention to them: — ¶ „We beg to add that the officers of Liverpool will keep a strict watch upon the vessel, and that any further information that may be obtained concerning her will be forthwith reported.“ ¶ Here was a distinct pledge on the part of two of her Majesty's officers that „they would keep a strict watch on this vessel,“ which pledge was sent to me with your Lordship's note of the 4th of July, requesting me to obtain such further evidence as might tend to show the destination of the vessel. Considering this as a distinct engagement sanctioned by her Majesty's government, to keep faithful watch over that vessel so long as it might be necessary to obtain more evidence as to her character, the precise date of the receipt of that evidence becomes a question of secondary importance. The true question appears to be how that pledge was actually redeemed. This will appear clearly enough in the sequel. ¶ On the 9th of July, the Consul made a statement to the collector of facts as they had become known to him. He entered into a number of details in respect to the persons engaged in connexion with this vessel, naming individuals with a particularity certainly deserving of some investigation by her Majesty's officers at Liverpool, if they really meant to satisfy themselves that she ought to be detained. But it does not appear that they considered it their duty to initiate or even to carry on an inquiry. The Board of Customs contented themselves with a formal reply on the 15th instant, denying that there was sufficient *primâ facie* evidence to justify a seizure of the vessel. ¶ On the other hand, my Lord, I must take the liberty to remark, after a calm re-examination of the substance of that letter, that if there was not *primâ facie* evidence enough in it to justify the seizure, there was matter enough in it to make it the bounden duty of her Majesty's officers to lose no time and omit no effort to obtain the evidence on their own account to verify or to disprove the allegations. ¶ They do not so appear to have read their duty. The consequence was that more time was necessary for me to procure the information which as officers of the Crown, they admit in their own letter they ought to have procured themselves. I did obtain evidence, though the process naturally consumed time. The evidence

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was submitted on the 21st of July by the Consul at Liverpool to the collector of that port, and by him referred to the Board of Customs. The deliberate answer of that body was made on the 23d of July, and it was to the effect that it was not sufficient to justify any steps being taken against the vessel under the law. ¶ Thus far it appears that although her Majesty's officers had pledged the government to keep faithful watch over the vessel and report any further information they might obtain, no one of them seems to have been disposed to pay the smallest attention to any representations or any evidence offered by myself or any agent of the United States, even so far as to stimulate his own action in any way whatever. A change now took place, to the nature of which I beg most particularly to call your Lordship's attention. ¶ On the next day after this decision of the Customs Board, I had the honour of sending to your Lordship copies of six of the very same depositions which had been already sent to them. Whether these would by themselves have met with a better fate I cannot venture to pronounce. But on the 24th I transmitted two additional ones, to which was appended a professional opinion by a British subject, distinguished as a Queen's Counsel, which had been given to me after a careful examination of all these papers. It was to the following effect:—

„1. That if the Collector of Liverpool did not detain the vessel he would incur a heavy responsibility of which the Board of Customs must take their share.

„2. That if the vessel was allowed to escape, it deserved consideration whether the Federal government would not have serious grounds of remonstrance."

These were ominous words. They laid the responsibility distinctly upon the very parties who had given the original pledge of vigilance and attention. And yet during the very interval in which her Majesty's government was deliberating upon their purport, the vessel was permitted to escape. Neither did this event occur without most explicit warning of the danger having been given by a person acting on behalf of the United States. As early as the 23d of July, six days before that escape, Mr. Squarry, the solicitor employed in the case, addressed a note to the Secretary of the Customs Board warning them most distinctly of the fact that the vessel was ready for sea, had 50 men on board, and could sail at any time. On the 26th he wrote another letter, repeating the warning once more; yet in spite of the promise to keep a strict watch, and in spite of these repeated warnings, the vessel was permitted to steam out of Liperpool just as if no cause of suspicion of her destination had ever been excited. And as if to crown the extraordinary character of the transaction, after receiving from Mr. Squarry notice on the 29th that the vessel was actually gone, it was not until the 31st that telegrams were issued to Liverpool ordering her detention. I must respectfully represent to your Lordship that this proceeding, so far from appearing to do any justice to the demand of the United States, looks almost as if it were intended as a positive insult. ¶ It is true that on the same day telegrams ordering a detention were sent to Cork; likewise, on the 1st of August, to Beaumaris and Holyhead; and on the 2d of August a letter was sent to the collector at Cork to the same effect. For all practical purposes they might have

been sent just as well at this moment that I am addressing these lines to your Lordship. It further appears that instructions were sent to the Governor of the Bahamas in case the vessel should visit Nassau. The vessel did not visit that place; but the next time she visited a port within her Majesty's dominions was after she had entered upon her career of depredation, and then, instead of being detained, she was politely received and acknowledged as the vessel of a *bonâ fide* belligerent. ¶ It now appears that from the day when, by the flagrant negligence of her Majesty's Board of Customs, this vessel, admitted to be intended for war purposes, was suffered to depart from the port of Liverpool, down to the hour of her destruction by the United States' steamer Kearsarge, off the coast of France, she came again and again into ports within her Majesty's jurisdiction; and instead of being treated as her Majesty's government directed if she should go to Nassau, she was everywhere hailed with joy and treated with hospitality as a legitimate cruiser. ¶ On behalf of my government, I respectfully protest against the whole of this proceeding as contrary to recognized principles of international law. What the obligation of her Majesty's government really was in this instance is so clearly laid down by a distinguished writer, notoriously disposed never to exaggerate the duties nor to undervalue the privileges of neutrals, that I will ask the liberty to lay before you his very words:— „Le fait de construire un bâtiment de guerre pour le compte d'un belligérant, ou de l'armer dans les États neutres, est une violation du territoire. Toutes les prises faites par un bâtiment de cette nature sont illégitimes, en quelque lieu qu'elles aient été faites. Le Souverain offensé a le droit de s'en emparer, même de force, si elles sont amenées dans ses ports, et d'en réclamer la restitution lorsqu'elles sont, comme cela arrive en général, conduites dans les ports hors de sa juridiction. Il peut également réclamer le désarmement du bâtiment illégalement armé sur son territoire, et même le détenir, s'il entre dans quelque lieu soumis à sa souveraineté, jusqu'à ce qu'il ait été désarmé.“ ¶ It is, then, with undoubting confidence in the justice of the reasoning here presented that I take the liberty to reaffirm the validity of the claims of my government for all the damage done by this vessel during her career, and ask reparation therefore. ¶ With respect to the extract from the letter of Mr. Seward to me of the 13th of August, 1863 (actually written in 1862), by a clerical error in your Lordship's note that for a time misled me, which you are pleased to quote as a proof that he was perfectly satisfied with the proceedings, I can only remark that the very date itself sufficiently proves that his language never could have been intended to apply to the extent to which your Lordship appears to suppose, for at that moment he had been but very partially put in possession of all the facts connected with the case. His remark obviously pointed only to the disposition of your Lordship, which has never been brought into question. What he has thought of the whole case since, what instructions have been given to me in consequence, are matters too well known to your Lordship to render further explanation necessary. ¶ Passing from this point to the more general question between the two countries, I proceed to the task of considering an argument of your Lordship of a widely different description; this is one drawn entirely from the authority supplied by the previous

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practice of the government which I have the honour to represent. You cite this as an example to sustain the position taken by her Majesty's government against the present claim. It is urged that, in at least two instances cited, where similar claims were presented by the representatives of foreign Powers to the United States, they were replied to with substantially the same reasoning now repeated by her Majesty's government. These are the cases of Spain and Portugal, the commerce of which countries had suffered from depredation on the ocean committed by vessels built, armed, manned, and equipped by citizens of the United States, and despatched from their ports. ¶ The first remark that I would pray permission to submit in connexion with this view of the subject is this. That even if it were true that the government of the United States had, half a century since, refused to recognize the just claims of other Powers for damage done by reason of their omission to prevent the abuse of their neutral ports to the commerce of those Powers, it could in no degree change the nature of any subsequent omission or neglect committed by other Powers at this day. It is a principle of morals too thoroughly known to your Lordship to require my dwelling upon it for a moment, that the wrongdoing of one party cannot be cited in justification of a repetition of the act by another. Surely, if the United States' government had ventured upon declaring what was once known as a paper blockade of the whole Southern coast, her Majesty's government would not have been content to be told that such was the acknowledged practice of Great Britain many years ago? Neither would it have been better satisfied if the United States had resorted to the pressgangs in the outset of the war to fill their ships with British subjects forced against their will to fight their own countrymen in the Alabamas, and Floridas, and Shenandoahs, and Tallahassees, depredating on the ocean, to be told, in answer to their remonstrances, that just such was the treatment Americans experienced at the hands of Great Britain prior to the war of 1812. ¶ But, conclusive as this reasoning may be held to be to annul at once all the authority that springs from mere precedent as its source, I am by no means disposed to resort to it in the cases cited by your Lordship. They are very familiar to me, and to my view are in themselves so far from furnishing strength to the positions which have been taken by your Lordship, that they bear directly the contrary way. The parallel attempted to be drawn is, in other words, wholly defective and inapplicable. ¶ In regard to the injuries inflicted by citizens of the United States upon the commerce of Spain, the extract which your Lordship is pleased to quote from the official note of the representative of the latter country, Don Luis de Onis, certainly does show that such were actually committed. I am not aware that the government of the United States ever denied the fact. The expedition fitted out by General Miranda against a certain portion of the coast of South America then under Spanish rule was unquestionably a violation of the neutrality of the country which ought to have been prevented. All these cases constituted claims which the Spanish government held against the United States, very much in the same way that the claims for damage done by the Alabama, &c., issued from British ports, are now held by the United States. On the other hand, however, it should be observed that out of the

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wars of Europe there had grown up a much larger amount of claims on behalf of the people of the United States for injuries done to their commerce by illegal seizure and condemnation of their vessels in the ports of Spain. In progress of time the necessity became urgent on both sides to enter into a deliberate examination of the merits of these respective claims, and, if possible, to arrive at fair terms of settlement. A plan of a treaty was proposed, embracing all that was regarded as fairly to be brought forward on the two sides. It was during this process that Don Luis de Onis, the very same person whom your Lordship has been pleased to cite as making the complaint, himself, on the 24th of October, 1818, presented a project of six articles intended to include every one of those objects. ¶ There can be no doubt that this proposal was intended to cover the very claim which was presented in the previous note of January, 1817, an extract from which your Lordship has done me the honour to quote. If your Lordship should have any inclination to draw it into question, I shall only have to refer you to a second project presented by the same individual on the 16th of November, 1818, in which occur these words: — „My fourth proposal to your government has for its object the renunciation by both governments and nations of all claims for spoliations respectively suffered by either of the two Powers, or their subjects, until the signing of the Treaty.“ ¶ And as a voucher for what was meant, there is attached to this paper a document containing three separate lists — one, of the names of the Spanish vessels taken; another, of the privateers fitted out in the American ports, by which they were taken; and a third, of the property taken in those vessels. In other words, these constitute the very claims for injuries complained of in the note of M. Onis, to which your Lordship has been pleased to refer. ¶ To this proposition so presented by M. Onis the government of the United States raised no objection. It was, therefore, so far as it went, admitted as an item *pro tanto* on the side of Spain in the settlement of the opposite questions between the two nations. As such, it was incorporated into the project of a Treaty drawn up by Don Luis de Onis for the consideration of the United States' government, and delivered on the 9th of February, 1819. In this paper it makes a portion of the Xth Article. The renunciation of His Majesty was made to extend to all injuries caused by the expedition of Miranda, fitted out and equipped at New York, and „to all claims of subjects of His Catholic Majesty upon the government of the United States, in which the interposition of His Catholic Majesty's government has been solicited before the date of this Treaty, and since the date of the Convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.“ ¶ It is not to be supposed for a moment that in taking this voluntary offer the Spanish government did not expect to gain for it a just equivalent in settling the other and less farourable terms of the Treaty. ¶ This offer so made was accepted by Mr. Adams for the United States, and incorporated in his counter-project offered to Don Luis de Onis on the 13th of February, 1819. ¶ It therefore now stands *totidem verbis* as a part of the Treaty signed by the representatives of the two countries on the 22d of February of that year. ¶ All

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the papers from which these extracts are taken have been long before the world. I trust I may therefore be pardoned if I express no small astonishment that your Lordship should have fallen into the error of affirming in the note which I have had the honour to receive that „it does not appear that any compensation was ever made for any of these seizures.“ ¶ I now ask leave to proceed to the consideration of the other case referred to in your Lordship's note, the claim of Portugal upon the United States for similar injuries to those complained of on behalf of Spain. I am the more disposed to approach the subject that, unlike the other case, it is new in the correspondence which it has been my duty to hold with your Lordship, and that it gives me an opportunity to correct some misapprehensions which appear to exist as to its true character and bearing on the present discussion. ¶ The extracts from various public papers of the government of the United States with which your Lordship has favoured me sufficiently establish the fact as stated, to wit: — „That the revolutionary movement in South America excited the sympathy of the people of the United States“. ¶ Your Lordship is pleased here to apply the parallel so far as to admit that in this kingdom there was similar sympathy with „the people of the Southern States“ in what you describe as „their endeavours to give these States an independent position in the world.“ This was an unfortunate illusion as to the true objects of that struggle of which I have been aware, but which I have never ceased to regret. ¶ Yet I would respectfully call the attention of your Lordship to the circumstance, in connexion with this supposed parallel, that notwithstanding the sympathy of the people of the United States with South America, and notwithstanding that the insurgents did possess both open ports and abundant facilities for cruising on the ocean, the government of the United States did not herald their movement by a prompt declaration recognizing these people as a belligerent Power as against Spain. ¶ So far was this from being true, that no sooner was it known that movements were set on foot to make a few of the ports of the United States a base for the operations of the insurgents, aided by citizens of the country, than orders were given to the proper officers of the government to apply the whole power of the existing laws to prevent it. In proof of this assertion, I pray permission to submit the reports of the prosecuting attorneys for the two districts in which the offences were most committed. Copies of these papers will be found appended to this note. They will show that seven different individuals, citizens of Spanish America, engaged in these operations against the neutrality of the country, were subjected to trial for their offences in the courts. I would here beg leave to interpose the remark that, so far as I know, in spite of all the evidence which I have presented to your Lordship as to the complicity of leading insurgents of the United States residing in this kingdom in the violations of neutrality here committed, not a single prosecution has ever been attempted by her Majesty's government. They will also show that the only limit to the effort of the government to punish the parties concerned was the inefficacy of the provisions of the existing law passed in 1794. It was this difficulty which soon forced itself upon the attention of the President. ¶ It is here that I beg leave to take up the case of Portugal, and to

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ask attention to those particular points in which the action of the United States in this case differs most materially from that of her Majesty's government, with which it has been attempted to make a parallel. ¶ On the 20th of December M. J. Correa de Serra, the diplomatic representative of Portugal at Washington, addressed a note to Mr. Monroe, then the Secretary of State, presenting the particulars of a strong case of violation of the law which had just happened in Baltimore. He proceeded frankly to acquit the government of any want of disposition to punish the offence, and to mention the obstacle, which he designated to be an imperfection of the Statute Law. ¶ I pray your Lordship's permission to cite the passage which explains the nature of the request he made in consequence: — „I apply, therefore, to this government in the present instance not to raise altercations or to require satisfaction, which the Constitution of the United States has not, perhaps, enabled them to give, because I know that the Supreme Executive of this nation, all powerful when supported by law, is constitutionally inactive when unsupported by it. What I solicit of him is the proposition to Congress of such provisions by law as will prevent such attempts for the future. I am persuaded that my magnanimous Sovereign will receive a more dignified satisfaction, and worthier of his high character, by the enactment of such laws by the United States which, insuring the respect due to his flag for the future, would show their regard for his Majesty, than in the punishment of a few obscure offenders (even if attainable), who, disowned as they are by the United States, no doubt, if they take any unwarrantable liberty with the property of his Majesty's subjects, meet the fate every honest mind wishes to them, and serve as examples and warning to those who may in future feel piratical dispositions. I rely on the President's wisdom, and the wish I am sure he must feel of putting an end to these shameful practices, that he will take the proper measures to have my just requisition fulfilled." ¶ This was on the 20th of December. Only six days elapsed after the reception of this application, when Mr. Madison, then the President, addressed a Message to both Houses of Congress in the following words: — „It is found that the existing laws have not the efficacy necessary to prevent the violation of the obligations of the United States as a nation at peace towards belligerent parties, and other unlawful acts on the high seas by armed vessels equipped within the waters of the United States. With a view to maintain more effectually the respect due to the laws, to the character, and to the neutral and pacific relations of the United States, I recommend to the consideration of Congress the expediency of such further legislative provisions as may be requisite for detaining vessels actually equipped, or in course of equipment with a warlike force, within the jurisdiction of the United States; or, as the case may be, for obtaining from the owners or commanders of such vessels adequate securities against the abuse of their armaments, with the exception in such provisions proper for the cases of merchant vessels furnished with the defensive armaments usual on distant and dangerous expeditions, and of a private commerce in military stores permitted by our laws, and which the law of nations does not require the United States to prohibit." ¶ The precise points which he desired to have incorporated into a statute are specified in a note from the

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Secretary of State to Mr. Forsyth, Chairman of the Committee on Foreign Relations. They are these: — „Having communicated to you verbally the information asked for by your letter of the 1st inst., except so far as it relates to the last inquiry it contains, I have now the honour to state that the provisions necessary to make the laws effectual against fitting out armed vessels in our ports for the purpose of hostile cruising seem to be: —

„1. That they should be laid under bond not to violate the treaties of the United States, or the obligations of the United States under the law of nations, in all cases where there is reason to suspect such a purpose on foot, including the cases of vessels taking on board arms and munitions of war, applicable to the equipment and armament of such vessels, subsequent to their departure.

„2. To invest the collectors, or other revenue officers where there are no collectors, with power to seize and detain vessels under circumstances indicating strong presumption of an intended breach of the law; the detention to take place until the order of the Executive, on a full representation of the facts had thereupon, can be obtained. The Statute-book contains analogous powers to this above suggested (see particularly the 11th section of the Act of Congress of April 25, 1808). The existing laws do not go to this extent. They do not authorize the demand of security in any shape, or any interposition on the part of the magistracy as a preventive, where there is reason to suspect an intention to commit the offence. They rest upon the general footing of punishing the offence merely where, if there be full evidence of the actual perpetration of the crime, the party is handed over, after the trial, to the penalty denounced."

Experience both in America and in this kingdom has united to prove that the measure of restraint here pointed out is almost the only effective one which can be resorted to in such cases. Had it been found possible to use it here, I am confident that a great portion of the difficulties experienced by her Majesty's government during the late war would have been avoided. ¶ On the 3d of March, 1817, a temporary law was passed to meet the emergency, which was received by the Portuguese Minister with the greatest satisfaction. ¶ On the 8th of March, 1818, the Portuguese Envoy addressed a representation to the Secretary of State in regard to the capture of three vessels by one of these illegal cruisers. But it should be particularly noted that these cases appear all to have grown out of depredations committed by a single vessel which had escaped from the United States previous to the date of the enactment of the new statute. The captures themselves took place on the ocean about the time of its passage. ¶ With the aid of this explanation your Lordship will be better able to appreciate the force of the language of Mr. Adams, then the Secretary of State, in his reply to the Portuguese Minister, which you have done me the honour to quote in your note. The government had not only literally done all in its power, under existing laws, to prevent these violations of neutrality, but had, at the request of the Envoy himself, procured the adoption by Congress of a new and more stringent statute. Surely, under such circumstances, nothing more could reasonably be expected of it. ¶ This seems to have been the opinion of

the Portuguese Minister himself. So well satisfied was he with the practical operation of this law in checking these enterprises that at the moment when it was about to expire by its own limitation of two years, on the 4th of February, 1819, he once more came forward to express his anxiety about losing it, and addressed an earnest representation to the United States' government to secure an extension of the term. The reply was to the effect that it had not only been incorporated into a new improved form, but was made permanent. ¶ This will appear from the following note of Mr. Adams: „Sir, — In answer to your letter of the 4th inst. I have the honour of informing you that the Act of Congress of the 3d of March, 1817, to which it refers, was repealed by the Act of the 20th of April last, entitled an Act in addition to the Act for the punishment of certain crimes against the United States, and to repeal the Acts therein mentioned, being the eighth chapter of the laws of the last Session. On referring to this last-mentioned statute, which is not of limited duration, you will find that the provisions of the temporary Act of the 3d of March, 1817, are re-enacted by it." ¶ From all which proceedings it distinctly appears that, although there were some violations of neutrality committed in defence of every precaution both before and afterwards, yet the position of the United States in regard to every complaint was an impregnable one. It had done everything in its power, not only to execute existing laws, but to provide more stringent and satisfactory enactments to remedy the defects of the old ones. ¶ Had her Majesty's government, in its wisdom, decided to do as much as this in the late war, I am not sure that I should have been able to resist the argument drawn from the example your Lordship has cited in its defence. But I regret to be obliged to remind you that so far was this from being the case, it took diametrically the opposite course. At an early period my government, not unaware of the obstacles that were presenting themselves to the effective application of the existing statutes of Great Britain to the offences notoriously committed within this kingdom, directed me to call your Lordship's attention to the expediency of procuring for the government more stringent provisions. I did then venture respectfully to propose to you that some steps should be taken to obtain at least such modifications of the existing Enlistment Act as might tend to make it a better preventive measure. Your Lordship was pleased in the first instance to respond favourably, at least so far as to make the adoption of such amendments conditional upon corresponding and simultaneous action on the part of the United States. But no sooner had I succeeded in obtaining from my government its assent to a consideration of the arrangement and communicated the result to you, than your Lordship will be so good as to recollect that I received for answer that her Majesty's government had in the interval reconsidered its decision, and had finally determined to rely upon the existing statutes as quite effective to answer the desired purpose. ¶ From this survey of the two cases it must, then, be obvious, that the parallel which your Lordship has attempted is by no means to be regarded as complete. Inasmuch as in the one instance everything that was required as security by a foreign Power was actually done to please it, while in the other everything required was as positively declined.

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Hence, the responsibility for the evil consequences which was lifted by its own action from the one party, seems to have been entailed with renewed force by its refusal to act upon the other. ¶ Your Lordship is pleased to observe that you can never admit that the duties of Great Britain towards the United States are to be measured by the losses which the trade and commerce of the United States may have sustained. To which I would ask permission to reply that no such rule was ever desired. The true standard for the measurement would seem to be framed on the basis of the clear obligations themselves, and the losses that spring from the imperfect performance of them. ¶ With regard to the observations of your Lordship respecting the seizure by her Májesty's government of the two steam war vessels constructed by Mr. Laird at Liverpool, I have at all times endeavoured to bear my feeble testimony to the earnest desire then manifested to put a stop to that most outrageous of all the attempts that have been made to violate the neutrality of this kingdom. At the same time, however, since your Lordship has been pleased to open that subject, it is no more than my duty to observe that the proceeding does not appear to have terminated as, in accordance with her Majesty's dignity, I am compelled to think it should have done, in fully upholding the authority of the sovereign Power, but rather in a necessity to resort to an indirect mode of escaping the hazard of recourse to the ordinary process of the Courts for the protection due to a foreign nation. So far as the claims of the government of the United States are concerned, it matters little by what means the end may have been reached. At the same time, it is impossible for it not to have been made painfully conscious in the process that the security of the peace of the two nations from one of the most flagrant violations of international obligations ever attempted should have been left to hang upon a mode of proceeding wholly foreign from the recognized and established law of the land. ¶ The fact of the extraordinary decline of the mercantile navigation of the United States simultaneously with a corresponding increase of that of Great Britain, as shown in the tables appended to my former note, does not appear to be disputed by your Lordship; nor yet the other fact, that it sprang from the transfer of vessels from the one side to the other by reason of the ravages committed by armed steamers fitted out from the ports of Great Britain. It is true yonr Lordship is pleased to avoid the natural inference which I have been compelled to draw from this state of things, by explaining the process in another way. You are pleased to affirm it as a fact that „it has been common to transfer American merchant ships, without change of cargo or of crew, nominally to British owners, in order to avoid the higher rates of insurance payable during war.“ But in reply to this I would remark, in the first place, that even if this statement be correct to a far greater extent than I should at present be disposed to admit, it is nothing less than a direct fraud on one of the belligerents, which, if it had had native vigour, instead of being an unthrifty offshoot from a purely British stock, would have furnished to it just ground for general retribution upon British commerce by subjecting it to the most annoying suspicion and severe examination; and the next, that the very fact of the admitted rise in the rates of insurance on American ships only brings us once more back to look at the

original cause of all the trouble, to wit, the fact of the issue of all the depredating vessels from British ports with British seamen, and with, in all respects but the presence of a few men acting as officers, a purely British character. ¶ Thus it is that whatever may be the line of argument I pursue, I am compelled ever to return to the one conclusion—the nation that recognized a Power as a belligerent before it had built a vessel and became itself the source of all the belligerent character it has ever possessed on the ocean, must be regarded as responsible for all the damage that has ensued from that cause to the commerce of a Power with which it was under the most sacred obligations to preserve amity and peace. ¶ There remain a few minor points in your Lordship's note which might have elicited further comments on my part, but for the consideration that the positions taken in regard to them by my government have been already on a former occasion sufficiently set forth. I am, therefore, reluctant, by further extending this note, to run the risk of trespassing unnecessarily on your Lordship's patience. I trust that in performing the task to which my sense of duty calls me, I shall not be found to have in any degree transgressed the limits of amicable discussion to which it is the earnest desire of my government that I should ever adhere, and which it is always my own disposition to observe. ¶ I pray, &c.

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Charles Francis Adams.

To Earl **Russell.**

No. 1977.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Erörterung der vermeintlichen Gründe für die Entschädigungsansprüche der Ver. Staaten. —

Foreign-Office, Aug. 30, 1865.

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Sir, — Having purposely delayed an answer to your letter of the 20th of May, I now resume our correspondence at a time when the civil war has entirely ceased, when the whole territory of the United States is subject to the government of the Union, and the United States have not an enemy in the world. I resume it, therefore, at a time such as was foreseen in your letter of the 23d of October, 1863, „favourable for a calm and candid examination by either party of the facts or principles involved in cases like the one in question.“ ¶ I resume it also at a time when Mr. Seward has recovered from the injuries he received from an accident and the wounds inflicted by an assassin, and is, therefore, able to apply his remarkable powers of mind to the questions at issue. I take this opportunity of saying that no one rejoices more than myself at this happy recovery from injuries so serious. ¶ In continuing, in this state of affairs, our correspondence, I must again express my satisfaction at finding that you do justice to the impartial intentions of her Majesty's government. I must here repeat that you have never permitted yourself to doubt the favourable disposition of the Queen's Ministers to maintain amicable relations with the government of the United States; and

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you attribute the avoidance of the gravest of complications to a full conviction that her Majesty's government has never been animated by any aggressive disposition towards the United States, but that, on the contrary, it has steadily endeavoured to discountenance, and in a measure to check, the injurious operations of many of her Majesty's subjects. ¶ This decisive testimony from a person or your high character, who has now for four years held the confidential position of Minister of the United States accredited to her Majesty, and has thereby been enabled to judge of the intentions of her Majesty's government throughout this long and destructive contest, is most gratifying to her Majesty's government. It is most satisfactory to know that you share in none of those suspicions, and endorse none of those charges of an unfriendly and unfair disposition on the part of her Majesty's government, with which public writers and speakers have endeavoured to poison the public mind in the United States, and to produce ill-will and hatred between the two nations. ¶ The question, then, as I understand it, is now reduced to these terms—whether her Majesty's government have judged rightly the state of a friendly nation disturbed by a formidable insurrection, and whether they have correctly applied the law of nations in respect to their duties towards that friendly nation. ¶ In recapitulating your statements on this subject you say „that the injuries thus received by a country which has meanwhile sedulously endeavoured to perform all its obligations, owing to the imperfection of the legal means at hand to prevent them, as well as the unwillingness to seek for more stringent powers, are of so grave a nature as in reason and justice to constitute a valid claim for reparation and indemnification.“ ¶ Differing, as her Majesty's government do, from your statement of the facts upon which the judgment of the two governments is to be ultimately formed, I lay down with confidence the following propositions: —

1. That the history of modern nations affords no example of an insurrection against a central government so widely extended, so immediate in its operations, so well and so long prepared, so soon and so completely furnished with the machinery of civil government, a national representation, generals and officers of high military reputation, armies fully equipped, and fortifications recently in possession of the established government.

2. That intelligence reached her Majesty's government, in the spring of 1861, that seven combined States had declared in favour of this insurrection; that three more States, including the great and powerful States of Virginia, were preparing to join them; that these States commanded upwards of 3,000 miles of sea-coast; that they comprised more than 5,000,000 people, exclusive of the negro slaves; that the President of the insurgent government had proclaimed his intention of issuing letters of marque and reprisal; that the President of the United States, on the other hand, had proclaimed his intention to establish a blockade of all the ports of the Southern States; and that in these circumstances the commander of her Majesty's naval forces on the North American station earnestly solicited instructions for his guidance.

3. That in view of these extraordinary events, unexpected and undesired, her Majesty decided to proclaim her neutrality in this contest: to allow

the belligerent blockade of more than 3,000 miles of coast, including of course the right of search, detention, and capture on the part of the United States, and on the other hand, as in duty bound, to recognize in the so-called Confederate States the rights of a belligerent Power.

4. That her Majesty's government put in force with fairness and impartiality the neutrality they had proclaimed.

5. That the Foreign Enlistment Act, which is intended in aid of the duties and rights of a neutral nation, can only be applied when a ship is armed or fitted out, or begun to be armed or fitted out, and even in that case only when proof can be obtained that the ship so armed or equipped, or begun to be armed or equipped, is intended for the service of a Power at war with a friend or ally of her Majesty.

6. That in the instance of the Oreto the case justifying the detention of the vessel was not complete, and in the case of the Alabama the proof was declared to be complete only on the very morning when the owners of the Alabama, having by some means obtained information of what was intended, got away on a false pretence.

7. That the Oreto was begun to be built here, was afterwards detained and tried at Nassau, was acquitted, and was afterwards completed at Wilmington, a port of the Confederates.

8. That the iron-clad rams were detained, and afterwards seized at Birkenhead; that the so-called Canton or Pampero was prosecuted and convicted in Scotland; that the Victor, afterwards the Rappahannock, was forced to take refuge at Calais in order to avoid seizure, and till the close of the war never appeared on the seas.

9. That it is not enough to say that the Foreign Enlistment Act might have been amended, and made more efficient, unless it be shown that the amendments suggested would have been clearly efficient, and would have been consistent with the laws of a free country.

10. That nothing but the most extensive employment of spies and informers, and the most arbitrary powers of detention and seizure on the most vague and slight suspicion, could have prevented a British or American merchant, in combination with a Confederate enemy of the United States, from sending an unarmed ship to distant neutral waters, from sending arms to the same waters, and from combining the ship and the arms in a hostile cruiser against the commerce of the United States.

11. That the Shenandoah was despatched and armed in this manner.

12. That there is no reason or ground whatever to accuse her Majesty's government of failure in the performance of their international obligations during the four years of civil war, and consequently no valid claim can be made for reparation and indemnification.

With respect to your allegation that the concession of belligerent rights to the Confederates was „precipitate and unprecedented," I answer both epithets by saying, first, that our declaration followed, and did not precede, your own declaration of the intended blockade of six or seven considerable ports, and the

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declaration of an intention on the part of the Confederates to issue letters of marque; and, secondly, that a sudden insurrection of such magnitude being unprecedented, our recognition of its existence was necessarily likewise unprecedented. ¶ But let me refer for a short time both to the law laid down by your own Courts on this subject, and the state of facts as shown by official documents. The judgment of the Supreme Court of the United States, given in 1862 (*Black's Reports*, *Supreme Court*, vol. ii., pp. 666-670), lays down with equal sense and learning the following propositions: — „The right of prize and capture has its origin in the *jus belli*, and is governed and adjudged under the law of nations. To legitimate the capture of a neutral vessel or property on the high seas, a war must exist *de facto*, and the neutral must have a knowledge or notice of the intention of one of the parties belligerent to use this mode of coercion against a port, city, or territory in the possession of the other. ¶ „The parties belligerent in a public war are independent nations; but it is not necessary to constitute war that both parties should be acknowledged as independent nations or sovereign States. A war may exist when one of the belligerents claims sovereign rights as against the other. ¶ „A civil war is never solemnly declared; it becomes such by its accidents—the number, power, and organization of the persons who originate and carry it on. When the party in rebellion occupy and hold in a hostile manner a certain portion of territory, have declared their independence, have cast off their allegiance, have organized armies, have commenced hostilities against the former Sovereign, the world acknowledges them as belligerents, and the contest as a war. ¶ „ ,A civil war,' says Vattel, ,breaks the bonds of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as constituting, at least for a time, two separate bodies—two distinct societies. Having no common superior to judge between them, they stand in precisely the same predicament as two nations who engage in a contest and have recourse to arms.' ¶ „As a civil war is never publicly proclaimed, *eo nomine*, against insurgents, its actual existence is a fact in our domestic history which the Court is bound to notice and to know. The true test of its existence, as found in the writings of the sages of the common law, may be thus summarily stated: — ,When the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open, civil war exists, and hostilities may be prosecuted on the same footing as if those opposing the government were foreign enemies invading the land.' ¶ „By the Constitution, Congress alone has the power to declare a national or foreign war. It cannot declare war against a State, or any number of States, by virtue of any clause in the Constitution. The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed. He is Commander-in-Chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States. He has no power to initiate or declare a war either against a foreign nation or a domestic State. But, by the Acts of

Congress of the 28th of February, 1795, and 3d of March, 1807, he is authorized to call out the militia and use the military and naval forces of the United States in case of invasion by foreign nations, and to suppress insurrection against the government of a State or of the United States. ¶ „If a war be made by invasion of a foreign nation, the President is not only authorized, but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. And whether the hostile party be a foreign invader or States organized in rebellion, it is none the less a war, although the declaration of it be ‚unilateral‘. Lord Stowell (1 *Dodson*, 247) observes, ‚It is not the less a war on *that account*, for war may exist without a declaration on either side‘. It is so laid down by the best writers on the law of nations. A declaration of war by one country only is not a mere challenge to be accepted or refused at pleasure by the other. ¶ „This greatest of civil wars was not gradually developed by popular commotion, tumultuous assemblies, or local unorganized insurrections. However long may have been its previous conception, it nevertheless sprang forth suddenly from the parent brain, a Minerva in the full panoply of war. The President was bound to meet it in the shape it presented itself without waiting for Congress to baptize it with a name, and no name given to it by him or them could change the fact. ¶ „It is not the less a civil war, with belligerent parties in hostile array, because it may be called an ‚insurrection‘ by one side, and the insurgents be considered as rebels or traitors. It is not necessary that the independence of the revolted province or State be acknowledged in order to constitute it a party belligerent in a war according to the law of nations. Foreign nations acknowledge it as war by a declaration of neutrality. The condition of neutrality cannot exist unless there be two belligerent parties. In the case of the Santissima Trinidad (7 *Wheaton*, 337), this Court says, — ‚The government of the United States has recognized the existence of a civil war between Spain and her colonies, and has avowed her determination to remain neutral between the parties. Each party is therefore deemed by us a belligerent nation, having, so far as concerns us, the sovereign right of war.‘ ¶ „The law of nations is also called the law of nature; it is founded on the common consent, as well as the common sense, of the world. It contains no such anomalous doctrine as that which this Court are now for the first time desired to pronounce, to wit, that insurgents who have risen in rebellion against their Sovereign, expelled her courts, established a revolutionary government, organized armies, and commenced hostilities, are not enemies because they are traitors; and a war levied on the government by traitors, in order to dismember and destroy it, is not a war because it is an ‚insurrection.‘ ¶ „Whether the President, in fulfilling his duties as Commander-in-Chief in suppressing an insurrection, has met with such armed hostile resistance, and a civil war of such alarming proportions, as will compel him to accord to them the character of belligerents, is a question to be decided by him, and this Court must be governed by the decisions and acts of the political departments of the government to which this power was intrusted. He must determine what degree of force the crisis demands. The proclamation of blockade is itself official

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and conclusive evidence to the Court that a state of war existed which demanded and authorized a recourse to such a measure under the circumstances peculiar to the case.“ ¶ The course of her Majesty's government followed the course of events in America. ¶ It appears by *The Times* of the 3d of May, 1861, that I stated in the House of Commons on the preceding day (the 2d of May), „Her Majesty's government heard the other day that the Confederate States have issued letters of marque, and to-day we have heard that it is intended there shall be a blockade of all the ports of the Southern States.“ ¶ On the 6th of May I stated in the House of Commons the intention of the government, formed after due deliberation, to recognize the Southern States as belligerents. ¶ On the 10th of May I received a despatch from Lord Lyons making the following announcement: — „I have the honour to inclose copies of a proclamation of the President of the Southern Confederacy, inviting application for letters of marque, and also a proclamation of the President of the United States declaring that Southern privateers will be treated as pirates, and announcing a blockade of the Southern ports.“ ¶ Thereupon the intention of her Majesty's government previously announced was carried into effect, and the proclamation of the 13th of May, 1861, was issued. ¶ It is very remarkable that an English schooner, the Tropic Queen, was captured for a breach of blockade, consisting in the act of lading her cargo on the 13th and 14th of May, 1861. ¶ The offence in this case was committed on the very day that the Queen acknowledged the existence of civil war. The Court in giving judgment referred to the notorious facts of the secession of the Southern States, and proceeded thus: — „These facts, as set forth by the President, with the assertion of the right of blockade, amount to a declaration that civil war exists. Blockade itself is a belligerent right, and can only legally have place in a state of war,“ &c. ¶ What you contend for, I imagine, both as to commencement of the war and as to its close, is that the United States of America had a full claim to exercise all the rights of belligerents, but that Great Britain had no just claim to exercise any of the rights of neutrals. ¶ This position, however, Great Britain never can permit. ¶ Recognitions by the United States of belligerent rights belonging to insurgents have been frequent; Buenos Ayres, Colombia, Mexico, have been acknowledged by the United States to have belligerent rights against Spain; Brazil and Artigas against Portugal; Texas against Mexico. But in no case have these insurgent forces sprung up at once fully armed to the amount of five millions of men. ¶ With respect to the Oreto and the Alabama, I have only again to repeat that up to the time when the Oreto left these shores, and up to the day when the Alabama escaped on a false pretence, the law officers of the Crown had not by any legal opinion enabled her Majesty's government to give any orders for the detention of these vessels. ¶ I entirely concur with you that there was no use in giving orders on the 31st of July for detaining a vessel which had made its escape on the 29th. But up to the 29th the law officers had not thought the evidence sufficient to justify detention; but I cannot by any means admit, what you seem to insinuate, that the law officers were deficient either in knowledge of the law or in willingness to apply it. Her Majesty's government fully accept the responsibility of their

opinions. ¶ And it will be observed that the law officers, in addition to the reports of the Custom-house officers, were in possession of all the information which it was in your power to furnish. ¶ You allude to the case of the American Revolution, and the conduct of France in not recognizing the belligerent rights of the insurgents then in rebellion against the British Crown. ¶ Let us extend our view somewhat wider. There have been in the period beginning in 1765 and ending in 1865, three cases of a somewhat similar kind. ¶ The first is that of the American Revolution; the second is that of the revolt of the South American Republics; the third is that of the civil war which from 1861 to 1865 desolated the United States of North America. ¶ In the first case the Court of France sought only to injure Great Britain. ¶ In this spirit, in 1776, before the Declaration of Independence, the French government put itself in connexion with Arthur Lee through de Beaumarchais, and with Benjamin Franklin through Dubourg, offering to the United States the supplies they needed. When, however, the news of Burgoyne's surrender reached France, the French government took a more decided course. In February, 1778, they signed two treaties, one of commerce and one of alliance, with the United States of America. Nor were the motives of these acts on the part of Louis XVI. by any means concealed. ¶ M. Gerard was ordered to declare on the King's part to Arthur Lee and Silas Dease, the Commissioners of the United States: — „That his Majesty was fixed in his determination not only to acknowledge but to support our independence by every means in his power; that in doing this he might probably soon be engaged in war, with all the expenses, risks, and damages usually attending it, yet he should not expect any compensation from us on that account, nor pretend that he acted wholly for our sakes; since, besides his real goodwill, it was manifestly the interest of France that the power of England should be diminished by our separation from it.“ *) ¶ I am not arguing whether this conduct was justifiable; I am only showing that France in the American war took a part hostile to Great Britain in order to promote her own interests. ¶ In the same spirit, in order to promote the interests of France and injure those of Great Britain, the government of Louis XVI., two years after the declaration of independence, made an alliance offensive and defensive with the United States. ¶ Such conduct, however it may be excused or even admired in Europe or in America, could not form a precedent for Great Britain in the late civil war. Her Majesty's government had no wish to favour the separation of the Southern States with a view to injure the power or check the progress of the United States. It has been the wish of her Majesty's government, who had received no injury from either the Northern or the Southern States, and was living in amity with both, when hostilities of the most violent character commenced between them, to preserve an honest and impartial neutrality. ¶ The next case to which we have looked has been the insurrection of the South American Republics against Spain, and of the Empire of Brazil against Portugal. ¶ This insurrection began slowly and partially at Buenos Ayres on the 14th of May, 1810, by the formation of a Junta and the

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*) See „Diplomacy of the Revolution,“ by William Trescot. New York, 1852.

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deposition of the Viceroy; the government, however, being carried on in the name of the King of Spain until January, 1813, when a provisional government was established. On the 9th of July, 1816, the provinces of the Rio de la Plata issued a declaration of independence, and on the 20th of April, 1819, a Constitution was published by the Congress. ¶ In 1811 the insurrection commenced in Paraguay, the Spanish Governor was deposed, and a government established under the direction of Dr. Francia. On the 12th of October, 1813, a Constitution was proclaimed. ¶ In 1811 civil war commenced in Chile, but the Declaration of Independence was not issued until the 12th of February, 1818, and the war continued until 1820. ¶ The revolution in Peru commenced in 1821, a Declaration of Independence being issued on the 15th of July, 1821, and the war continuing until 1824. ¶ On the 15th of September, 1821, Guatemala declared her independence, which, however, was not finally established until the 1st of July, 1823. ¶ The revolution in Colombia (including Venezuela, Ecuador, and New Granada) commenced April 19, 1810, at Caraccas. On the 5th of July, 1811, the Congress declared Colombia an independent State, but the war with Spain continued until November, 1823. ¶ In 1815 the President of the United States allowed belligerent rights to the South American States, and proclaimed a strict neutrality. This proclamation was recognized by the Supreme Court and other tribunals of the United States as the guide for their decisions. ¶ It is here that her Majesty's government have looked for precedents. The United States had been from 1793 to 1815, with the exception of two years, neutrals amid the great wars of Europe. Their wisest statesmen and their most learned judges had studied the law of nations profoundly with a view to extract from that law the rules for their own conduct, and the elements of their judgment on the conduct of others. ¶ In 1794 the United States' government had admitted the principle that if, after prohibiting the equipment and armament of cruisers in American ports, they abstained from using the means in their power to restore prizes captured and brought into United States' ports by cruisers subsequently equipped or armed in those ports in violation of the prohibition, they were bound to give compensation for such prizes; but they appear to have limited their admission of liability to that particular class of cases. ¶ When, therefore, the continent upon which they have erected a free and powerful State was convulsed with civil war, the President, Secretaries of State, Chief Justices, and other judges of the United States, doubtless considered maturely the course they were bound to pursue. ¶ You seem to have supposed that my meaning in reference to Portugal was that the United States in that case had been in the wrong, and therefore if Great Britain had been wrong in the present instance, the United States could not reproach us. But no such argument entered into my conception. My argument was this:— ¶ Portugal during the war of South American independence complained of captures by American vessels of war built in the United States which had not been detained and seized and condemned in the ports of the United States. ¶ The answer of Mr. Adams to these complaints was, as I conceived, valid and conclusive. He said in effect, — „Had you been able to prosecute and convict in the United States, our courts were open to you, and every facility was afforded

you. But you cannot make the government of the United States responsible for the acts of men on the high seas over whom the United States exercise no jurisdiction.“ ¶ Having repeated the very terms used by Mr. Adams, I say, „To this most just principle, which was again referred to by Mr. Secretary Clayton, and maintained against the government of Portugal to this hour, the government of the United States must be held still to adhere.“ In fact, there was no motive to bias their judgment on this bloody controversy. Spain and Portugal, weakened by bad government and exhausted by recent struggles for existence, could inspire no apprehension and offer no temptation to the rising and vigorous power of the great western Republic. The conduct of the United States' government, therefore, is eminently deserving of our study, and, I may add, of our respect. ¶ But as you have commented at some length on the treatment of Portugal by the United States during the war of South American independence, I will enter more fully than I had before done into that question. ¶ The correspondence to which I refer began in December, 1816, and closed with a letter of the Portuguese Minister in November, 1850. It cannot be pretended that the reclamations of a friendly Power, extending over 34 years, did not receive the gravest attention of the American government. ¶ In his first letter the Portuguese Envoy at Washington complains that Mr. Taylor, of Baltimore, an American citizen, had directed Captain Fish, of the Romp, an American ship, to cruise as a privateer, under the insurgent colours of Buenos Ayres, against the subjects of Portugal. ¶ He adds, „The 18th of last month (November) the frigate Clifton, Captain Davy, armed with 32 guns of various calibres, and a crew of 200 men, sailed from Baltimore for Buenos Ayres. This ship anchored below that port, where it has remained for about a fortnight or more waiting for the American ship Independence of the South, armed with 16 guns, and for the ships Romp, Tachahoe, Montezuma, and Spanker, and two others newly constructed, which were fitting with great activity, and which had not yet got names. All were to sail together to cruise in the eastern and western seas of South America under the insurgent colours of Buenos Ayres. No doubt can be entertained of their instructions being the same as those of Captain Fish, and that they will act hostilely against Portuguese ships.“ ¶ The Portuguese Envoy, Joseph Correa de Serra, prays for an amendment of the law of the United States with a view to render it more efficient in such cases. A law having been passed by Congress for this purpose, the Portuguese Envoy in May, 1817, requests that the President will desire the United States' officers on the outposts to use greater vigilance. ¶ In March, 1818, he complains that three Portuguese ships have been captured „by privateers fitted in the United States, manned by American crews, and commanded by American captains, though under insurgent colours.“ ¶ In October of the same year the Portuguese Envoy complains that the Portuguese prize is fitting in the Patuxent to cruise against Portuguese commerce. ¶ In November of the same year the Portuguese Minister states to Mr. Adams that, obliged by his duty to inquire into the nature of the armed ships that had of late insulted the flag of his Sovereign, and committed incalculable depredations on the property of his subjects, he had found, to his sorrow, multi-

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plied proofs that many of them were owned by citizens of the United States, and had been fitted in the ports of the Union. He goes on to complain of the difficulties in the way of prosecutions, but compliments the President on his „honourable earnestness.“ ¶ In December of the same year the Portuguese Minister complains of the armed vessel Irresistible, which had been committing „depredations and unwarrantable outrages on the coast of Brazil.“ He says, it is proved by depositions that John Daniels, the commander of the ship, is an American, and all the crew are Americans. He prays that if the ship should come into an American port means may be taken to bring the said captain and crew within reach of the laws made to punish such scandalous proceedings. ¶ In March, 1819, M. Correa de Serra states, as Minister of his Sovereign, that Artigas, whose flag is frequently waving in the port of Baltimore, and which is carried by Portuguese prizes in the ports of the Union, has been expelled far from the countries which could afford him the power of navigating, and has not a foot length of sea-shore in South America where he can show himself. He prays that the Artigan flag may be declared illegal. ¶ In November, 1819, after expressing his gratitude for the proceedings of the Executive, the same Minister complains that the evil is rather increasing. He is in possession of „a list of 50 Portuguese ships, almost all richly laden, some of them East Indiamen, which had been captured during a period of profound peace. One city alone on the coast of the United States had 26 armed ships which preyed on Portuguese commerce, and a week ago three armed ships of this kind were in that port waiting for a favourable occasion for sailing on a cruise.“ ¶ In June, 1820, the Portuguese Minister complains that a Portuguese prize had been sold by auction at Baltimore to Captain Chase (a notorious privateersman), and was to be immediately fitted out as a privateer to cruise against the Portuguese Indiamen. ¶ In July of the same year the Portuguese Minister sends a list of „the names and values of 19 Portuguese ships and their cargoes, taken by private armed ships fitted in the ports of the Union by citizens of those States.“ His Sovereign wishes the affair to be treated with that candour and conciliating dignified spirit which becomes two Powers who feel a mutual esteem, and have a proper sense of their moral integrity. „In this spirit I have the honour to propose to this government to appoint Commissioners on their side, with full powers to confer and agree with his Majesty's Ministers on what reason and justice demand.“ ¶ In December, 1820, the Chevalier Amado Grehon transmitted to Mr. Adams a copy of 12 claims, with the value of the ships, desiring him to add them to the list furnished by the Chevalier Correa de Serra. ¶ In April, 1822, the same Minister repeats the proposal made in July, 1820, „of having recourse to commissaries chosen by both governments for the purpose of arranging the indemnities justly due to Portuguese citizens for the damage which they have sustained by reason of piracies supported by the capital and the means of citizens of the United States; an essential condition which, in this way repairing the past, secures also the future.“ ¶ On the 25th of May, 1850, the Chargé d'Affaires of Portugal, writing to the Secretary of State of the United States, declares, „The undersigned is authorized to come to an understanding with the new Secretary of State upon the subject, and to sub-

mit the voluminous documents and papers in his possession to the joint examination and decision of the Commissioners or arbitrators appointed by the American government on the one part, and the undersigned on behalf of her Majesty's government on the other," &c. ¶ Having thus related the complaints of the Portuguese government during the years which elapsed from 1816 to 1822, and from 1822 to 1850, I will now give from the organs of the United States the answers which that government gave to these solemn and reiterated complaints. ¶ In March, 1817, the Secretary of State transmitted to the Portuguese Minister at Washington an Act of Congress, passed on the 3d of that month, to preserve more effectually the neutral relations of the United States. On the 14th of March, 1818, in answer to a letter complaining of the capture of three Portuguese ships by privateers, Mr. Adams says: — „The government of the United States having used all the means in its power to prevent the fitting out and arming of vessels in their ports to cruise against any nation with whom they are at peace, and having faithfully carried into execution the laws enacted to preserve inviolate the neutral and pacific obligations of this Union, cannot consider itself bound to indemnify individual foreigners for losses by captures over which the United States have neither control nor jurisdiction. For such events no nation can in principle, nor does in practice, hold itself responsible. A decisive reason for this, if there were no other, is the inability to provide a tribunal before which the facts can be proved. ¶ „The documents to which you refer must, of course, be *ex parte* statements, which in Portugal or in Brazil, as well as in this country, could only serve as a foundation for actions in damages, or for the prosecution and trial of the persons supposed to have committed the depredations and outrages alleged in them. Should the parties come within the jurisdiction of the United States, there are Courts of Admiralty competent to ascertain the facts upon litigation between them, to punish the outrages which may be duly proved, and to restore the property to its rightful owners, should it also be brought within our jurisdiction, and found, upon judicial injury, to have been taken in the manner represented by your letter. By the universal law of nations the obligations of the American government extend no further." ¶ The Secretary of State in subsequent letters promises to prosecute in the United States' Courts persons chargeable with a violation of the laws of the United States in fitting out and arming a vessel within the United States for the purpose of cruising against the subjects of the Queen of Portugal. ¶ To the proposal to appoint commissioners made in July, 1820, the United States' Secretary of State, on the 30th of September of the same year, replies as follows: — „The proposal contained in your note of the 16th of July last has been considered by the President of the United States with all the deliberation due to the friendly relations subsisting between the United States and Portugal, and with the disposition to manifest the undeviating principle of justice by which this government is animated in its intercourse with all foreign governments, and particularly with yours. I am directed by him to inform you that the appointment of commissioners to confer and agree with the Ministers of his most faithful Majesty upon the subject to which your letter relates, would not be consistent either with the Constitution

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of the United States, nor with any practice usual among civilized nations." ¶ He proceeds to say: — „If any Portuguse subject has suffered wrong by the act of any citizen of the United States within their jurisdiction, it is before those tribunals that the remedy is to be sought and obtained. For any acts of citizens of the United States, committed out of their jurisdiction and beyond their control, the government of the United States is not responsible. To the war in South America, to which Portugal has for several years been a party, the duty and the policy of the United States has been to observe a perfect and impartial neutrality." ¶ The same reply is again given to Chevalier Amado Grehon, in a letter dated the 30th of April, 1822: — „I am at the same time directed to state that the proposition of the Chevalier Correa de Serra, in his note of the 16th of July, 1820, for the appointment of commissaries chosen by both governments to arrange indemnities claimed by Portuguese citizens for damages stated by them to have been sustained by reason of piracies supported by the capital and means of citizens of the United Statets, cannot be acceded to. It is a principle well known and well understood, that no nation is responsible to another for the acts of its citizens committed without its jurisdiction, and out of the reach of its control." ¶ The policy of the United States is further explained in a despatch of Mr. Secretary Adams to General Dearborn, dated the 25th of June, 1822. It is there set forth that in the critical state of the relations of the two countries it is necessary to employ the agency of a person fully qualified to represent the interests of the United States. It is affirmed, that whenever Portuguese captured vessels have been brought within the jurisdiction of the United States, decrees of restitution have been pronounced. ¶ In referring, however, to the list of captures, and the demand of a joint commission to determine and assess the damages to be paid by the United States, the former refusal was thus repeated: — „As there was no precedent for the appointment of such a Commission under such circumstances, and as not a single capture had been alleged for which the United States were justly responsible, this proposal was, of course, denied; and nothing further was heard upon the subject until the 1st of April last, when a note was received from the present Chargé d'Affaires of Portugal, leading to a correspondence, copies of which are now furnished you." ¶ The correspondence seems not to have been resumed till 1850, when, as has been shown, the demand for a Commission was repeated. ¶ The Secretary of State of the United States thereupon gave this summary and final answer, dated May 30, 1850: — „The undersigned is surprised at the reappearance of these obsolete reclamations, accompanied by the renewal of the ancient proposition to appoint a joint Commission to determine and assess damages, a proposition which was rejected at the time upon substantial grounds; and, without the Minister's assurance to that effect, the undersigned would not have supposed it credible that Portugal seriously cherished any intention to revive them. In reply, therefore, to the note, which the Minister of her most faithful Majesty has presented in the name of his government, the undersigned must now, by the President's order, inform him that he declines re-opening the proffered discussion." ¶ This despatch is signed „John M. Clayton." ¶ A long and able despatch of the Portuguese

Minister at Washington, recapitulating all the grievances of Portugal, dated November 7, 1850, does not appear to have received an answer. ¶ The practice of the United States' Courts during this war of South American Colonies against Spain and Portugal seems to have been confined to the restitution of prizes actually brought into the ports of the United States. The doctrine of the Courts of Justice upon the subject was thus laid down by Justice Story, in pronouncing the decision of the Supreme Court in the case of the Amistad de Rues (5 *Wheaton*, p. 388). Speaking of the cases of damages, he says: — „When called upon by either of the belligerents to act to such cases, all that justice seems to require is that the neutral nation shall fairly execute its own laws, and give no asylum to the property unjustly captured. It is bound, therefore, to restore the property if found within its ports; but beyond this it is not obliged to interpose between the belligerents. If, indeed, it were otherwise, there would be no end to the difficulties and embarrassments of neutral prize tribunals. They would be compelled to decide in every variety of shape upon marine trespasses *in rem* and *in personam* between belligerents, without possessing adequate means of ascertaining the real facts, or of compelling the attendance of foreign witnesses, and thus they would draw within their jurisdiction almost every incident of prize. Such a course of things would necessarily create irritations and animosities, and very soon embroil neutral nations in all the controversies and hostilities of the conflicting parties. Considerations of public policy come, therefore, in aid of what we consider the law of nations on this subject; and we may add that Congress, in its legislation, has never passed the limit that is here marked out.“ ¶ To the same effect is the doctrine laid down by the Supreme Court in the case of the brig Alerta: *)— „A neutral nation may, if so disposed, without a breach of her neutral character, grant permission to both belligerents to equip their vessels of war within her territory. But without such permission the subjects of such belligerent Powers have no right to equip vessels of war, or to increase or augment their forces, either with arms or with men, within the territory of such neutral nation. Such unauthorized acts violate her sovereignty and her rights as a neutral. All captures made by means of such equipments are illegal in relation to such nation, and it is competent to her Courts to punish the offenders, and, in case the prizes taken by her are brought *infra praesidia*, to order them to be restored.“ ¶ In comparing the course pursued by the government and Congress of the United States in the case of the South American civil war, with that pursued by her Majesty's government in the case of the North American civil war, the following differences are perceptible: — ¶ The number of vessels built and fitted out in American ports which successfully evaded the provisions of the laws made to restrain them, and proceeded to cruise against Portuguese commerce, was very great; those which escaped the execution of the similar laws of Great Britain were very few. In the former case these illegal cruisers must have been 30 or 40; in the latter, three or four. ¶ In the case of the South American civil war the cruisers in question were generally commanded

*) Curtis' „Reports,“ vol. iii., p. 382.

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by citizens of the United States, and navigated by crews of the neutral nation; in the case of the North American civil war, no English captain appears to have commanded a cruiser, and the crews were generally, though not altogether, from the States in insurrection. ¶ But there is one essential point on which the United States and Great Britain appear entirely to agree. The United States when neutral refused to be responsible for captures at sea not brought within their jurisdiction, or to listen to a proposal to appoint a commission to assess damages; the government of the United Kingdom have taken a similar course. ¶ It is true that in applying the principle there has been a divergency of practice. The United States admitted the prizes to their harbours, but restored them, if practicable, when called upon by the decrees of courts of law, to their owners. The government of Great Britain refused admission altogether to such prizes. ¶ The principle is the same, and it is hardly worth while to dispute which course was most inconvenient to the insurgent cruisers. It appears to me, I confess, that the course pursued by her Majesty's government tended more effectually to discourage insurgent cruisers than that pursued by the United States. ¶ But as to the principle involved, let me ask you, supposing a merchant or passenger vessel belonging to the United States were to go to the coast of Madagascar, and were to meet a ship from Boston with cannon and muskets, and the merchant ship being then armed were to take part against Brazil in the war between Brazil and Paraguay, — let me ask, I say, whether your government would think themselves bound to afford reparation to Brazil for all the captures made by that ship? Yet such is the case of the Shenandoah. ¶ It seems to her Majesty's government that if the liability of neutral nations were stretched thus far, this pretension, new to the law of nations, would be most burdensome, and, indeed, most dangerous. ¶ A maritime nation whose people occupy themselves in constructing ships and cannon and arms might be made responsible for the whole damages of a war in which that nation had taken no part. ¶ I am thankful, therefore, to Mr. Adams for having in 1818, 1820, and 1822 shielded maritime Powers by his conclusive argument from such alarming liabilities. ¶ You say, indeed, that the government of the United States altered the law at the urgent request of the Portuguese Minister. ¶ But you forget that the law thus altered was the law of 1794, and that the law of 1818 then adopted was, in fact, so far as it was considered applicable to the circumstances and institutions of this country, the model of our Foreign Enlistment Act of 1819. ¶ Surely, then, it is not enough to say that your government, at the request of Portugal, induced Congress to provide a new and more stringent law for the purpose of preventing depredations, if Great Britain has already such a law. Had the law of the United States of 1818 not been already in its main provisions adopted by our Legislature, you might reasonably have asked us to make a new law; but surely we are not bound to go on making new laws, *ad infinitum*, because new occasions arise. ¶ The fact is, this question of a new law was frequently discussed, but the conclusion arrived at was that, unless the existing law after a sufficient trial should be proved to be practically inadequate, the object in view would not be promoted by any attempt at new legislation.

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The existing law has, in fact, not proved inadequate, when circumstances of strong suspicion have been so far established as to justify the government in ordering the detention of the suspected vessels, and it is by no means certain that any possible alteration of the law would enable more to be done in the way of prevention than this. That power was exercised in the case of the rams in the Mersey, and of the Canton or Pampero in the Clyde; and in neither case has the power exercised been censured or revoked either in a court of law or by any vote of Parliament. ¶ If it be said, as some persons of high authority in Parliament have said, that the executive government of the United Kingdom exercised in these cases an illegal power, my answer is, that whatever force such an argument might have in a court of law or in Parliament, it can have none in the mouth of a Secretary of State of the United States; for whether exercised legally or illegally, the power was equally effective in protecting the commerce and the harbours of the United States against ships built and equipped in British ports. ¶ With respect to orders to refuse entrance into our ports to all ships partly fitted up in the United Kingdom for the service of the Confederates, there was extreme difficulty in giving any such orders. ¶ During the South American civil war it was found practicable to bring to New York or Boston witnesses to prove that a South American cruiser had been built and armed in Baltimore. But to carry witnesses from Liverpool to Nassau or Jamaica to prove the building of the Alabama at Birkenhead would have been a fruitless effort. ¶ To produce copy of a conviction of the Alabama was impossible, as she had escaped conviction by flight; to carry witnesses to the Cape of Good Hope, to Melbourne, and elsewhere, for the purpose of showing that her owners had violated the Foreign Enlistment Act, was equally out of the question. ¶ No less impracticable would it have been to say to our Governors, „You may admit the Alabama, you may admit the Stonewall, but you must not admit the Florida.“ ¶ In your letter of the 23d of October, 1863, you were pleased to say that the government of the United States is ready to agree to any form of arbitration. ¶ Her Majesty's government have thus been led to consider what question could be put to any Sovereign or State to whom this very great power should be assigned. ¶ It appears to her Majesty's government that there are but two questions by which the claim of compensation could be tested. The one is, Have the British government acted with due diligence, or, in other words, with good faith and honesty, in the maintenance of the neutrality they proclaimed? The other is, Have the law officers of the Crown properly understood the Foreign Enlistment Act when they declined, in June, 1862, to advise the detention and seizure of the Alabama, and on other occasions when they were asked to detain other ships building or fitting in British ports? ¶ It appears to her Majesty's government that neither of these questions could be put to a foreign government with any regard to the dignity and character of the British Crown and the British nation. ¶ Her Majesty's government are the sole guardians of their own honour. They cannot admit that they may have acted with bad faith in maintaining the neutrality they professed. The law officers of the Crown must be held to be better interpreters of a British statute than any foreign government can be presumed to be. Her

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Majesty's government must therefore decline either to make reparation and compensation for the captures made by the Alabama, or to refer the question to any foreign State. ¶ Her Majesty's government conceive that if they were to act otherwise they would endanger the position of neutrals in all future wars. ¶ Her Majesty's government are, however, ready to consent to the appointment of a Commission to which shall be referred all claims arising during the late civil war, which the two Powers shall agree to refer to the Commissioners. ¶ I cannot conclude without taking this opportunity to ask you to join with her Majesty's government in rejoicing that the war has ended without any rupture between two nations which ought to be connected by the closest bonds of amity. ¶ The government of the United States have carried on to a successfull issue, with great fortitude and perseverance, a civil war of unequalled magnitude. ¶ In the course of this war they have resolved to abolish slavery. The British nation have always entertained, and still entertain, the deepest abhorrence of laws by which men of one colour were made slaves of men of another colour. The efforts by which the United States' government and Congress have shaken off slavery have, therefore, the warmest sympathies of the people of these kingdoms. ¶ The same sympathies will accompany the President and Congress of the United States in endeavouring to reorganize the Southern States on the basis of equal freedom. ¶ Nor is there any question in dispute which seems likely to disturb the friendship of the two nations which, the one in Europe and the other in America, are distinguished for their love of liberty. Let our two nations, therefore, instead of captious discussions, respect the honour and believe in the friendly intentions of each other. In this manner we may preserve unbroken the ties of peace, and exercise a beneficial influence on the future destinies of the nations of the world. ¶ I am, &c. *Russell.*

To Mr. Adams.

No. 1978.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Königl. Grossbr. Min. d. Ausw. — Festhaltung der Entschädigungsansprüche gegen England. —

[Confidential.]

Legation of the United States, London, Sept. 18, 1863.

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My Lord, — I have had the honour to receive your note of the 30th of last month, in reply to mine of the 20th of May last. ¶ It gives me great satisfaction to be the medium of communicating to my government the very friendly assurances of your Lordship. I cannot entertain a doubt that they will be fully appreciated. ¶ In respect to the reference which you have done me the honour to make to me, as having at no time entertained a doubt of the intentions of her Majesty's Ministers to maintain amicable relations with my government during the late severe struggle in my country, I am happy to believe that your Lordship has not essentially misunderstood my sentiments. At the same time that I cheerfully confirm such declarations as may have been made by me on that subject in

the correspondence I have heretofore had the honour to hold with your Lordship, I trust I may be permitted to claim, on behalf of my own government, the credit of intentions to the full as amicable. Indeed, without the presence of these elements on both sides, I should have despaired of the possibility of the passage of the two nations in safety through the difficulties presented to them from within, as well as from without. ¶ But while I am prompt to respond to your Lordship in the sense attributed to me, I pray permission to guard myself against an inference that might by possibility be drawn from a portion of your language, prejudicial to my maintenance of the course which my government has seen fit to take in regard to the events which have given rise to the present discussion. While doing the fullest justice to the intentions of her Majesty's Ministers, I feel equally bound to preclude the supposition that I have ever been satisfied with the measure in which, on too many occasions, they have contented themselves with carrying these intentions into practice. Inasmuch as the relations between nations, not less than between individuals, must depend upon the mode in which they fulfil their obligations towards each other rather than upon their motives, the questions which have grown out of the events of the late war appear to lose little of their gravity from any reciprocal disavowal, however complete, of ill-will on the part of the respective governments. ¶ I am happy to concur with your Lordship in the opinion that this appears to be a favourable moment for a calm and candid examination of these questions. ¶ Were it not for this consideration I should abstain from further discussion, and content myself with simply transmitting to my government the conclusion to which her Majesty's Ministers have arrived, as communicated to me towards the close of your Lordship's note. ¶ But entertaining as I do a strong impression that in the matter now at issue is involved a question of international comity, based upon grave principles of morals, of universal application, the decision upon which is likely to have a very wide bearing upon the future relations of all civilized nations, and especially those most frequenting the high seas, I feel myself under the necessity of placing upon record the views of it held by the government which I have the honour to represent, at least to the extent to which the period of my service at this post has enabled me to do them but feeble justice. ¶ In the note which I had the honour to address to your Lordship on the 20th of May last, when recapitulating, in the form of propositions, the argument which made the basis of certain reclamations upon her Majesty's government, I submitted, first of all, „that the act of recognition by her Majesty's government of insurgents as belligerents on the high seas, before they had a single vessel afloat, was precipitate and unprecedented." ¶ To this affirmation I understand your Lordship now to reply by candidly admitting the truth of at least one-half of it. In pleading in justification that the insurrection which caused it was unprecedented, you certainly concede that the recognition was so likewise. ¶ It may then be hereafter assumed as a fact beyond dispute that no similar act was ever done by one nation towards another with which it was in amity. ¶ With regard to the other term which I took the liberty to use, the word „precipitate," I beg leave to call your Lordship's attention to the ground upon which you proceed to justify the act of recognition,

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You are pleased to observe that it „followed and did not precede our own declaration of the intended blockade of six or seven considerable ports, and the declaration of an intention on the part of the Confederates to issue letters of marque." ¶ Now, I pray you particularly to note that, if this be the whole case made, your Lordship has gone the length of conceding that her Majesty's government actually adopted this most grave proceeding without the evidence in its possession of any fact whatever upon which to rest it. The statement is simply that a declaration of intentions to act had been made by the respective parties preparing for a struggle. ¶ Hence I feel constrained respectfully to submit it to your Lordship whether in the history of civilized nations there can be found a single instance in which a step of such importance was ever taken by one friendly government in regard to another upon a mere presumption of what was going to be done—an assumption of certain acts contemplated but not performed. It would appear to be the part of calm statesmanship, in cases which cannot fail deeply to affect the interests of a friendly nation, to postpone acting at least until something shall have been actually done to require it. In this instance there was no certainty at the time when her Majesty's government acted that either of those declarations of intention would be fulfilled. The result proves that one of them, in point of fact, never was executed. Neither is it at all beyond the possibility of belief that the other would have been equally left incomplete but for this very action of her Majesty's government, which precluded all chance of avoiding to have recourse to it. The actual blockade, then, so far from being a cause, became actually an inevitable consequence of its policy. With the reluctance of my government to resort to that measure, and the causes which overcame it, your Lordship must have been too fully acquainted at the time to render it necessary for me to dwell upon this matter further. ¶ As a still stronger proof of the precipitate nature of that declaration, if any were needed, I pray permission only to refer to your published letter to Lord Lyons, written on the very day the announcement of the step taken by the government was made by yourself in the House of Commons, the 6th of May, 1861. In that letter your Lordship freely admits that, by reason of the interruption of the communication between New York and Washington, you had not then any information of the precise measures actually taken down to that moment by either of the parties in the struggle „which appeared to have commenced." ¶ Yet in spite of these circumstances, which deprived her Majesty's government of all accurate knowledge of the facts, and notwithstanding that there was no apparent cause in any event that had occurred urgently demanding an immediate decision, it was determined to adopt this step at this time; a step which, however intended, could not, just at the beginning of an undertaking to sap by violence the established authority of a friendly Power, fail to have an influence injurious to the maintenance of that authority and favourable to its overthrow. Considering the nature of the friendly intentions which your Lordship is pleased to take credit for, and in which I fully believe, the very best excuse which I can imagine for this proceeding is that it was precipitate. I should be sorry to be led to the natural inference that would follow my admitting it to have been done with

deliberate premeditation. I therefore most respectfully persist, notwithstanding your Lordship's reluctance, in the opinion that I have not failed to give it the epithet which most fittingly belongs to it. ¶ But your Lordship in your note is pleased to justify this extraordinary „unprecedented and precipitate" step on another ground. This is the „magnitude" of the appearance of the insurrection. This certainly corresponds with my impression of the reasoning which you assign to me in the first conversation which I had the honour to hold with you after my arrival in this country, the 18th of May, 1861. This view is now amplified in the form of the propositions Nos. 1 and 2 with which your Lordship has now favoured me. ¶ „1. That the history of modern nations affords no example of an insurrection against a central government so widely extended, so immediate in its operation, so well and so long prepared, so soon and so completely furnished with the machinery of civil government, a national representation, generals and officers of high military reputation, armies fully equipped, and fortifications recently in possession of the established government. ¶ „2. That intelligence reached her Majesty's government in the spring of 1861 that seven combined States had declared in favour of this insurrection; that three more States, including the great and powerful State of Virginia, were preparing to join them; that these States commanded upwards of 3,000 miles of sea-coast; that they comprised more than 5,000,000 of people, exclusive of the negro slaves; that the President of the insurgent government had proclaimed his intention of issuing letters of marque and reprisal; that the President of the United States, on the other hand, had proclaimed his intention to establish a blockade of all the ports of the Southern States; and that in these circumstances the commander of her Majesty's naval forces on the North American station earnestly solicited instructions for his guidance." ¶ In respect to this, may I be permitted to beg your attention to the fact that, with perhaps the exception of the gross number of the people engaged, I do think myself able to furnish an example of an insurrection in every particular corresponding to your description, which has occurred within the last century. I do not doubt that my allusion will at once be understood by your Lordship without another word. ¶ Yet, notwithstanding all the points of identity in that case, I cannot find that her Majesty's government was met at the outset in 1774 with any announcement, by a foreign Power in amity with Great Britain, of a necessity immediately to recognize the insurgents as a belligerent Power, because of the magnitude of the struggle, or for any other cause. Neither is there the smallest ground for believing that it would have tolerated the proceeding for one moment if it had been. ¶ Her Majesty's government at once resorted without scruple or hesitation to every right ordinarily exercised by a belligerent in a war with a strong Power, and was met with a degree of resistance more effective and enduring than any manifested in the late struggle. That resistance, too, was carried out on the ocean, where alone the interests of distant neutral States are liable to be seriously affected by the domestic strife of any nation, in a manner far more extensive than the late insurgents by their unaided efforts ever could have attempted. Yet a length of time elapsed before any foreign Power, however much inclined, ventured

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to find in this state of things any reason for considering the people waging such a war as a belligerent Power. It furthermore is certain that if at any time the smallest indication of a leaning that way manifested itself in any of the commercial Powers, it was immediately noted by the British government for remonstrance and reclamation. ¶ Your Lordship has been pleased to review the conduct of France in this emergency, and to endeavour to set aside the parallel which I attempted in my note, on the ground that that country was animated by a policy decidedly hostile to Great Britain. The fact is, doubtless, so. But it so happens that this only bears with the more force in my favour on the present argument. Had France, being inclined to injure Great Britain, decided to recognize the insurgents as a belligerent, it would, according to the doctrine now avowed by her Majesty's government, have been doing no more than was absolutely necessary and altogether justifiable. Why did it not take this step at once? Unhappily for the example, Great Britain at the outset insisted upon considering her as a friendly Power, and called upon her solemnly to desist from any attempt whatever to recognize the presence of the insurgent force. In proof of this I beg permission to quote a brief extract from an historical writer well known to have drawn his statements from official sources. Mr. Adolphus says that in April, 1775, that is one year after the outbreak of the insurrection, „the friendly disposition of the French government towards Great Britain has been unequivocally demonstrated; and the expectation that succour would be afforded the Americans was suppressed by an edict prohibiting all intercourse with them." ¶ It thus appears that no idea was at that early period entertained by the British authorities of any unfriendly disposition on the part of France. So far from being inclined, as your Lordship supposes it might have been, to give aid to the insurrection, which, since 1774, had been developing its great proportions, by any recognition of it as a belligerent, the French Sovereign frankly responded to an appeal made by Great Britain, by interdicting his people from all relations whatever with the Americans. In other words, the example shows that on both sides there was not the remotest conception that a recognition of insurgents as a belligerent, immediately upon the breaking out of the insurrection, could be considered as a justifiable act on the part of a friendly Power. ¶ This brings me to the point at which I am compelled to question the soundness of the proposition upon which your Lordship appears to proceed, to wit,—that the action of foreign countries in reference to an insurrection that may take place against the established government of a friendly Power is to be regulated by a consideration of the magnitude of the numbers that are engaged in the struggle. To my mind there is a difficulty in finding a foundation in sound principles for drawing such a distinction. If I may be permitted to express my own impression, it is that this action of foreign governments, if presumed to be really friendly, is rather to be based upon something like the same rule which they, whether representing large or small communities, would desire to be applied to themselves when in similar circumstances. The true criterion by which to be guided appears to be rather framed by patient observation of the probabilities of the issue. This can rarely be foreseen at the outset. It is not dependent on the mere accident of

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numbers. The force which lately overturned the government of Naples did not seem adequate to the object; yet it was accomplished nevertheless, and foreign nations, consequently, recognized the result. ¶ On the other hand, the numerical force enlisted in the insurrection in the United States seemed large, but time has shown that there never was a moment, while it lasted, that it had a chance of success against the resolute perseverance of a far stronger antagonist. For a foreign nation to have recognized in advance the handful of followers under the lead of General Garibaldi as a belligerent Power would have been everywhere regarded as a violation of comity to the Sovereign then ruling at Naples, and interfering to uphold an otherwise desperate undertaking. Yet the new Kingdom of Italy was the offspring of this enterprise. On the other hand, the attempt in advance to assume the unlikelihood that the legitimate authorities in the United States would sustain themselves pure because of the magnitude of the forces levied against them, and to make this reason a basis for an „unprecedented and precipitate" act, investing them with the rights of a belligerent all over the world, has ended only in furnishing a historical precedent, against the authority of which I cannot but feel it to be for the peace and the harmony of civilized nations, for all later times, most earnestly to protest. ¶ If I am correct in this view, then the conclusion which I find true international comity to prompt is this. Whenever an insurrection against the established government of a country takes place, the duty of governments under obligations to maintain peace and friendship with it, appears to be at first to abstain carefully from any step that may have the smallest influence in affecting the result. Whenever facts occur, of which it is necessary to take notice, either because they involve a necessity of protecting personal interests at home, or avoiding an implication in the struggle, then it appears to be just and right to provide for the emergency by specific measures, precisely to the extent that may be required, but no further. It is, then, facts alone, and not appearances or presumptions, that justify action. But even these are not to be dealt with further than the occasion demands; a rigid neutrality in whatever may be done is of course understood. If after the lapse of a reasonable period there be little prospect of a termination of the struggle, especially if this be carried on upon the ocean, a recognition of the parties as belligerents appears to be justifiable, and at that time, so far as I can ascertain, such a step has never, in fact, been objected to. Lastly, when the evidence sustains a belief that the established government has utterly lost the power of control over the resistance made, without probability of recovery, it is competent for any friendly government to recognize the insurgent force as an independent Power without giving it just cause of offence. ¶ Such appears to me to have been the course rigidly adhered to by the government which I have the honour to represent, in the long struggle that took place between Spain and her colonies in South America. On which side of it the sympathies of the people were cannot admit of a doubt. Yet the respective dates which your Lordship has been kind enough to search out and record in your note, sufficiently establish the fact, how carefully all precipitation was avoided in judging of the issue in regard to the mother country. I may, perhaps, be permitted to observe that the action of her

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Majesty's government in the same cases, furnishes even stronger precedents to confirm the soundness of my views. Its recognition of belligerency in these instances cannot be considered as suitably described by either term „unprecedented" or „precipitate." ¶ I have dwelt at some length upon this original point of difference between the two countries, because it has ever seemed to me the fruitful parent of all the subsequent difficulties, the nurse of a very large share of ill-feeling which I cannot deny now to prevail among my countrymen. How much stress has been laid upon it by my government, and how ably Mr. Seward, to whom your Lordship has kindly paid so graceful a compliment, has heretofore applied what you justly term „his remarkable powers of mind" to it, I am sure I need not remind you. In my note of the 20th of May I endeavoured to arrange in a logical sequence of distinct propositions, the effects which followed this as the first step, and which have led to the reclamations I have been constrained by my instructions to present. I do not propose at this time to dwell upon them further. I will only pray you to excuse the earnestness with which I venture to give expression to my views, under the plea of my belief that upon a correct decision in this controversy may depend the security which the commerce of belligerents will hereafter enjoy on the high seas against the hazard of being swept from them through the acts of nations professing to be neutral, and bound to be friendly. ¶ For if it be once fairly established as a principle of the international code that a neutral Power is the sole judge of the degree to which it has done its duty under a code of its own making, for the prevention of gross and flagrant outrages, initiated in its own ports by the agents of one belligerent co-operation with numbers of its own subjects and perpetrated upon the commerce of the other on the high seas; if it be conceded that the neutral, upon reclamation made for the injuries thus done by reason of the manifest inefficacy of its means of repression, which it has at all times the power to improve at will, can deliberately decline to respond to any such appeal, fall back upon the little that it has attempted as an excuse, and thenceforward claim, with justice, to be released from the inevitable consequences that must ensue from its inaction, then it must surely follow that the only competition between neutral Powers hereafter will be, not which shall do the most, but which shall do the least to fulfil its obligations of interdiction of the industry and enterprise of its people in promoting the conflicts that take place between belligerents on the ocean. If this be once recognized as good law through the authority which the powerful influence of her Majesty's government can attach to it, I dare not venture to foresee how much reluctance there may be on the part of the people whom I have the honour to represent to accept and act upon it. Hitherto a want of eagerness on the part of the most adventurous and least scrupulous portion of them to promote enterprise on behalf of any belligerent that promised personal advantage cannot be charged upon them. The references made by your Lordship to the cases of Spain and Portugal must have convinced you of this truth. The prospect of impunity in such enterprises is all that is needed. Further than this, I might only venture to suggest to your Lordship to consider which of the nations of the world presents on every sea

around the globe the most tempting prizes, in an event no friend would more deplore than myself, of its being again, as it has so often been heretofore, doomed to be afflicted by the calamities of a war. ¶ It does so happen, however, that no doctrine of this kind has yet been accepted as legitimate by the government which I represent. On the contrary, it has ever assumed the painful and difficult task of responding to the just appeals of foreign friendly nations for protection against such enterprises. Whenever representations have been made by their agents measures have been promptly taken to enforce the laws; and when the issue proved the inefficiency of the existing statutes, the duty of further legislation has been promptly recognized. This appears to me to constitute the full obligation of a neutral. Singularly enough, this course was taken in at least three instances, on the representations made by authority of her Majesty's government. I allude to the first law passed in 1794, in consequence of the complaints and at the special instance of Mr. Hammond, and to another in 1797. Your Lordship appears to me but partially to state what was done, when you dwell only on the compensation actually made for the cases in which there had been a failure to act. These laws were enacted to provide a better preventive process in all future cases, mainly for the protection of British commerce. The third example was the law of 1838, which was the remedy applied to excesses committed on the boundary of the British provinces in Canada by persons in the United States, whom the existing statutes were found not effective to restrain or punish. ¶ Thus it was, too, in the case of Portugal, to which your Lordship is pleased once more to call my attention. And here I must ask permission to re-state my view of the matter, which seems to have failed to be fully considered by your Lordship. I certainly understood you to introduce the case into the correspondence as going to show this: that the government of the United States had set a precedent of disavowing further responsibility in cases of reclamations for injuries committed on the high seas by outfits made, in despite of them, in their ports, against the commerce of Portugal, which the existing law had proved on trial ineffective to prevent or punish. This is the precise position which I understand her Majesty's government to assume. Hence the value of the example as a personal argument in the present instance. ¶ In opposition to this view, it has been my purpose by appealing to the facts in the case to show that the government had at once recognized the validity of the remonstrances of Portugal by first resorting to the laws already provided to meet the case by appeal to the Courts, and next by promptly responding to the later demand of the same nation for more effectual modes of restraint than those which experience had shown to be ineffectual. To meet this demand a new law more particularly addressed to the object of prevention had been enacted, the efficacy of which proved so considerable as actually to elicit from the remonstrating party repeated expressions of his satisfaction with it. It does not appear that any further security was ever asked than this. The government had done everything that could be reasonably required. It was therefore discharged from responsibility. ¶ There were, indeed, subsequent cases of wrongful outfits and captures, of which your Lordship has taken note.

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But, in reply to the remonstrances that followed, the answer was prompt that they no longer raised questions that called for the interposition of the Executive Department. Its whole duty had been performed. The true remedy was now open by an appeal to the Courts. The language of Mr. Adams in his reply to M. Correa de Serra, a portion of which only I perceive has been introduced in your Lordship's note, goes directly to this point. I pray permission to supply it in the following extract: — „The government of the United States has neither countenanced nor permitted any violation of that neutrality by their citizens. They have by various and successive acts of Legislature manifested their constant earnestness to fulfil their duties towards all parties to that war; they have repressed every intended violation of them which has been brought before their Courts, and substantiated by testimony conformable to principles recognized by all tribunals of similar jurisdiction.“ ¶ Your Lordship, in reading this passage, could hardly have failed to feel the force of the successive affirmations of facts which form the grounds of the plea that all the obligations imposed upon a neutral Power in such cases had been fulfilled. ¶ The fact in the case was that M. Correa de Serra in his representations had begun to change his grounds of complaint, and direct his charges against the administration of justice in the Courts. This was a position obviously untenable. Much and sorely as I have felt at times the little chance that the United States has stood of receiving impartial justice in her Majesty's Courts, I have never received from my government any instructions which did not fully recognize the impropriety of raising a question in regard to their decisions. This makes no part whatever of the grounds upon which I am instructed to make reclamations. The question has never been as to what the judicial tribunals have done or failed to do. It turns exclusively upon the duties of a neutral government to perform its obligations to a friendly Power by a prompt and energetic policy of repression of flagrant wrongs through existing means, and, in the event of a failure of those means, by the adoption of others which it was entirely within its power to supply if so disposed. The responsibility entailed upon her Majesty's government in the present instance has always seemed to me to grow out of the feebleness of its measures of prevention at the outset, and its deliberate refusal to obtain an enlargement of its powers after existing remedies had proved unavailing. ¶ With respect to that portion of your Lordship's note which appears to defend the existing legislation as having really proved adequate, I beg leave only to remark that it is sufficiently answered by the fact that you proceed to specify in proof of it mainly those cases in which her Majesty's government is admitted to have taken a responsibility of action beyond the law. While I have been always ready to bear testimony to the eminent utility of the action for which your Lordship appears to have assumed a grave responsibility, I am at a loss to perceive how this diminishes the force of the reasoning which would seek from the legitimate protection of the law of the land that performance of obligations which appears now to depend only on the courage of the Minister to transcend its limits. ¶ And here I must pray permission to dwell a moment upon one passage of your Lordship's note which has excited a strong sense of surprise, not

to say astonishment. In order that I may by no possibility be guilty of any misconstruction of the meaning of language, I take the liberty, with your permission, to transfer the very words. They are these: — „You say, indeed, that the government of the United States altered the law at the urgent request of the Portuguese Minister. ¶ „But you forget that the law thus altered was the law of 1794, and that the law of 1818 then adopted was, in fact, so far as it was considered applicable to the circumstances and institutions of this country, the model of our Foreign Enlistment Act of 1819. ¶ „Surely, then, it is not enough to say that your government, at the request of Portugal, induced Congress to provide a new and more stringent law for the purpose of preventing depredations, if Great Britain has already such a law. Had the law of the United States of 1818 not been already in its main provisions adopted by our Legislature, you might reasonably have asked us to make a new law; but surely we are not bound to go on making new laws *ad infinitum* because new occasions arise." ¶ If I do not rightly comprehend the sense of your Lordship, I pray to be corrected when I assume it to be that an argument drawn from the precedent of the course of my government in enacting a new law to meet the remonstrance of the Portuguese Minister has no force in supporting the representation I make in the present instance, because the very provisions of American legislation have been already long since substantially adopted by Great Britain in the Enlistment Act, the very Act which is now complained of as ineffective. In other words, your Lordship appears to take it for granted that Great Britain, having already passed a law as stringent and effective as that of the United States, is therefore justified in declining any proposal to go on amending it. ¶ If this be in verity your position, I must pray your pardon if I hazard the remark, in reply, that you cannot have given to the respective Statutes in question the benefit of that careful collation which the occasion would seem to require. If you had done so you must have noticed that, in point of fact, they are materially unlike. The British Law is, as your Lordship states, a re-enactment of that of the United States, but it does not adopt all of „its main provisions," as you seem to suppose. Singularly enough, it entirely omits those very same sections which were originally enacted in 1817 as a temporary law on the complaint of the Portuguese Minister, and were made permanent in that of 1818. It is in these very sections that our experience has shown us to reside the best preventive force in the whole law. I do not doubt, as I had the honour to remark in my former note, that if they had been also incorporated into the British statute, a large portion of the undertakings of which my government so justly complains would either have never been commenced, or, if commenced, would never have been executed. Surely it was not from any fault of the United States that these effective provisions of their own law failed to find a place in the corresponding legislation of Great Britain. But the occasion having arisen when the absence of some similar security was felt by my government to be productive of the most injurious effects, I cannot but think that it was not so unreasonable as your Lordship appears to assume, that it should hope to see a willingness in that of Great Britain to make the reciprocal legislation still more

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complete. In that hope it was destined to be utterly disappointed. Her Majesty's government decided not to act. Of that decision it is no part of my duty to complain. The responsibility for the injuries done to citizens of the United States by the subjects of a friendly nation, by reason of this refusal to respond, surely cannot be made to rest with them. It appears, therefore, necessarily to attach to the party making the refusal. ¶ But if the example thus set by her Majesty's government should come to be generally adopted, and the principles of neutrality upon which it rests be recognized as a part of the code of International Law, then it is not difficult to foresee the probable consequence. A new era in the relations of neutrals to belligerents on the high seas will open. Neutral ports in that event will, before long, become the true centres from which the most effective and dangerous enterprises against the commerce of belligerents may be contrived, fitted out, and executed. The existing restrictions upon the exploits of daring adventurers will rapidly become obsolete, and so new ones will be adopted. Ships, men, and money will always be at hand for the service of any Power sufficiently strong to hold forth a probability of repayment in any form, or adroit enough to secure a share of the popular sympathy in its undertakings. New Floridas, Alabamas, Shenandoahs, will appear on every sea. If such be the recognized law, I will not undertake to affirm that the country which I have the honour to represent would not in the end be as able to accommodate itself to the new circumstances as Great Britain. While I cannot but think that every moderate statesman would deprecate such a change, which could hardly fail to increase the hazard of lamentable complications among the great maritime Powers, I cannot see an escape from it, if a nation itself possessing a marine so numerous and extensively dispersed decides to lead the way. ¶ Entertaining these views, it appears scarcely necessary for me to follow your Lordship further in the examination of details of former precedents, either in English or American history. I am happily relieved from any such necessity by learning the conclusions to which her Majesty's government have arrived. Understanding it to decline the proposal of arbitration, which I had the honour, under instructions, to present, in any form, for reasons assigned by your Lordship, I nevertheless am happy to be informed that „her Majesty's government are ready to consent to the appointment of a commission, to which shall be referred all claims arising during the late civil war which the two Powers shall agree to refer to the commissioners." ¶ I have taken measures to make known, at the earliest moment, this proposal to my government, and shall ask permission to await the return of instructions before giving a reply. ¶ Disclaiming all authority to express in advance any opinion on the part of my government, I pray, at the same time, your Lordship's attention to a single circumstance which, without a previous agreement upon the great principles of international law involved in this controversy, may raise a difficulty in the way of accepting the proposal. At a first glance it would appear as if it were, in substance, identically the same with that long ago made by the Portuguese government to that of the United States. The essence of the answer returned in that case happens to have lately passed under your eye, since it is found incorporated in your Lordship's note. I

trust I cannot be suspected of a desire to imply that, in taking this step, her Majesty's government could have sought to appear either as proposing, on the one hand, a measure which it foresaw must be declined; or, on the other, one which, if accepted, could be so accepted only at the risk of a charge of disavowing the views of consitutional or international law entertained by my government in former times. It may, indeed, be that in this view, I may, after explanation, find that I have misconceived the nature of your Lordship's proposal on the view which my government will take of it, in which case I pray you to excuse the suggestion, and consider it as made without authority, and solely in the hope of eliciting such explanation. ¶ I take great satisfaction in concluding this note by cordially responding to your Lordship's request „to join with her Majesty's government in rejoicing that the war has ended without any rupture between two nations which ought to be connected by the closest bonds of amity." ¶ I likewise receive with great pleasure your Lordship's assurances that the efforts by which the government and congress of my country have shaken off slavery „have the warmest sympathies of the people of these Kingdoms." ¶ If from painful observation in a service extended through four years, I cannot in candour yield my entire assent to this statement, as applied to a large and too influential portion of her Majesty's subjects; if it has been my misfortune to observe in the process of so wonderful a revolution, a degree of coldness and apathy prevailing in many quarters, from which my countrymen had every right to expect warm and earnest sympathy; if throughout this great trial, the severity of which few not well versed in the nature of our institutions could fully comprehend, the voice of encouragement from this side of the water has too often emitted a doubtful sound, I yet indulge the hope that the result arrived at will ultimately correct the hasty and harsh judgments that flowed from lack of faith and of confidence in our fidelity to a righteous cause. Of the friendly disposition in this regard of the members of her Majesty's government, and especially of your Lordship, I have never permitted myself to doubt. And yet in the midst of the gravest of our difficulties I cannot forget that even your Lordship was pleased, in an official published despatch, to visit with the severity of your but too weighty censure the greatest political measure of the late lamented President— that which, in fact, opened the only practicable way to the final attainment of the glorious end. Under such circumstances, I pray you not to be surprised if I am compelled not to disguise the belief that with my government, as among my countrymen at large, there is still left a strong sense of injured feeling, which only time and the hopes of a better understanding in future, held out by the conciliatory strain in your Lordship's note, are likely to correct. Recognizing most fully the justice and propriety of the joint policy marked out in your concluding sentence, I have, &c.

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Charles Francis Adams.

To Earl **Russell.**

No. 1979.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Vereinigten Staaten in London. — Erläuterung über die Bedeutung der vorgeschlagenen Commission zur Untersuchung von Entschädigungsansprüchen. —

Foreign-Office, Oct. 14, 1865.

No. 1979. Gross-britannien, 14. Oct. 1865.

Sir, — I have thought it best to wait for the answer to the reference you have made to your government before replying to your last letter. ¶ But I observe that you have not clearly understood my proposal for the appointment of a Commission. ¶ That proposal is made in the following terms: — „Her Majesty's Government are ready to consent to the appointment of a Commission to which shall be referred all claims arising during the late civil war which the two Powers shall agree to refer to the Commissioners.“ ¶ There are, I conceive, many claims upon which the two Powers would agree that they were fair subjects of investigation before Commissioners. ¶ But I think you must perceive that if the United States' government were to propose to refer claims arising out of the captures made by the Alabama and Shenandoah to the Commissioners, the answer of her Majesty's government must be, in consistency with the whole argument I have maintained, in conformity with the views entertained by your government in former times. ¶ I should be obliged, in answer to such a proposal, to say, „For any acts of her Majesty's subjects committed out of their jurisdiction, and beyond their control, the government of her Majesty are not responsible.“ ¶ I should say further that the appointment of a Commission for such purpose would not be consistent with any practice usual among civilized nations, and that it is a principle well known and well understood that no nation is responsible for the acts of its citizens committed without its jurisdiction and out of the reach of its control. ¶ I should have cleared up this point before, but I thought that the words „which the two Powers shall agree to refer to the Commissioners“ would put an end to any doubt upon the subject. ¶ I am, &c.

Russell.

To Mr. **Adams**, *London.*

No. 1980.

VEREINIGTE STAATEN VON AMERIKA. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Zurücknahme des Vorschlags eines Schiedsgerichts und Ersuchen um Specificirung der, der englischer Seits vorgeschlagenen Untersuchungscommission zuzuweisenden Fälle. —

Legation of the United States, London, Oct. 17, 1865.

No. 1980. Vereinigte Staaten, 17. Oct. 1865.

My Lord, — I have the honour to acknowledge the reception of your note of the 14th inst., explanatory of some portions of a preceding one dated the 30th of August last. ¶ This has reached me just in season to enable me to dispense with the necessity of soliciting precisely that information; for, although

the government which I have the honour to represent had already understood your Lordship's note as substantially in the same sense, it has instructed me to ask the confirmation of it which has now been supplied. ¶ I am now directed to inform your Lordship that the contents of your note of the 30th of August have received the most careful consideration. ¶ With regard to the reference which you where pleased to make to a friendly remark contained in the note which I had the honour to address to your Lordship on the 23d of October, 1863, apparently considering it in the light of a formal proposal for arbitration, I am desired, in view of the reasons given by your Lordship why such a mode of adjustment would not be acceptable to her Majesty's government, to state that, whatever may have heretofore been, or might now be thought by the President, of umpirage between the two Powers, no proposition of that kind for the settlement of existing differences will henceforward be insisted upon, or submitted on the part of my government. ¶ The proposal of some form of Commission made by your Lordship still remains under consideration. To the end that my government may be the better enabled to make a satisfactory reply to it, I am still under the necessity of soliciting more information in regard to the precise nature of the claims which her Majesty's government is disposed to agree to consider. I am instructed to venture so far as to ask the favour of your Lordship to distinguish as well what among the classes of claims it is willing, and what it would not be willing, to refer to the proposed Commission. ¶ I pray, &c.

No. 1980. Vereinigte Staaten, 17. Oct. 1865.

Charles Francis Adams.

To **Earl Russell.**

No. 1981.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. d. Verein.-St. in London. — Nochmalige Erörterungen der erhobenen Entschädigungsansprüche in Antwort auf die Amerikanische Note vom 18. Septbr. (No. 1978). —

Foreign-Office, November 3, 1865.

Sir, — Her Majesty's Government have duly considered your letter of the 18th of September, and, however unwilling I may be to prolong this discussion, I find it absolutely necessary to clear up some misconceptions as to the course and conduct of Great Britain during the recent contest in America. ¶ I do not consider it incumbent upon me, however, to repeat or enlarge upon my arguments in reference to the alleged precipitate recognition of belligerent rights, or the contrast you draw between the conduct of her Majesty's government in the late civil war and that of France during the American war of independence. ¶ The existence of belligerent rights is, as Mr. Canning said, a question of fact rather than of opinion, and if the fact of a vast insurrection is developed suddenly, rapidly, and completely the case must, I conceive, be treated by other nations in a different manner from the case of a rebellion breaking out partially, slowly, and gradually. ¶ Nor do I conceive it is necessary to point out the difference between the conduct of France acknowledging the United States of America as an independent State, and forming treaties with the govern-

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No. 1981. Gross-britannien, 3. Nov. 1865. ment of that State within two years of the declaration of independence, and the patient neutrality of Great Britain, notwithstanding the interruption of her commerce and the immense losses suffered by her people during four years, and until victory had declared in favour of the government against which the insurrection was directed. ¶ I cannot forbear, however, to express some surprise at the apparent confidence you express that her Majesty's government will acquiesce in a doctrine which the United States, during more than 30 years, declared to be opposed to the law and practice of nations, and that her Majesty's government will grant reparation on grounds which, when urged by Portugal in a similar case, the United States positively, constantly, and solemnly rejected. ¶ Thus I find that in November, 1850, the Portuguese Minister at Washington*), in an able summary of the Portuguese claims, after relating that upwards of 60 Portuguese vessels had been captured or plundered; that the fitting out at Baltimore of the privateers which effected their capture was notorious, and that many leading citizens of Baltimore, including the Sheriff and Postmaster, were summoned before the Courts as interested in those privateers, adds, „The undersigned begs leave to say, and he submits that it was the duty of the United States' government to exercise a reasonable degree of diligence to prevent these proceedings of its citizens, and that having failed to do so, a just claim exists on the part of the government of Portugal, in behalf of its despoiled subjects, against the United States for the amount of the losses sustained by reason thereof." ¶ But did the United States admit the claims thus courteously preferred? I cannot find that even any reply was returned to the Portuguese Minister. ¶ Probably the United States' government relied on the answers which from 1816 to 1822, and from 1822 to 1828, had been given to the Ministers of Portugal. ¶ These answers were, in substance, that prosecutions would be instituted if evidence were forthcoming. Thus, in reply to a letter of the Portuguese Minister of December 11, 1818, respecting John Daniels, the supposed commander of a privateer, Mr. John Quincy Adams says: „The Attorney of the United States for the district of Maryland, under instructions from this department, will commence a prosecution against him, if evidence shall appear sufficient for convicting him of having violated the laws of the United States, by outrages committed upon any of the subjects of Portugal. ¶ „I have the honour of giving you this notice in reference to your letter above-mentioned, and of requesting you to give directions that any testimony which may be material for the commencement of a prosecution, and which it may be in your power to indicate, may be made known to Elias Glenn, the district attorney of the United States of Baltimore, who is directed to prosecute conformably to the laws any person against whom the evidence obtainable shall be sufficient to warrant his conviction **)." ¶ Exactly similar to this conduct on the part of your government has been the conduct of her Majesty's government in

*) The Portuguese Minister at Washington to the United States' Secretary of State, November 7, 1850.

**) The United States' Secretary of State to the Portuguese Minister at Washington, April 22, 1819.

the late war. In the case of the Alabama I asked for evidence sufficient to obtain a verdict, and as I could not myself judge of the sufficiency of the evidence you tendered, I referred the question to the law officers of the Crown. ¶ If it is asserted that I did not use reasonable diligence, or that the late and the present Attorney-General were either ignorant of the law, or purposely misstated it, I can only respectfully but decidedly repel any such charge, both for myself and for the law officers of the Crown. ¶ Yet, although our conduct has been precisely similar to that of your own government to Portugal, you now draw an alarming picture of the consequences which may arise from such conduct, „For," you say, — „if it be once fairly established as a principle of the international code that a neutral Power is the sole judge of the degree to which it has done its duty, under a code of its own making, for the prevention of gross and flagrant outrages, initiated in its own ports by the agents of one belligerent in co-operation with numbers of its own subjects, and perpetrated upon the commerce of the other on the high seas; if it be conceded that the neutral upon reclamation made for the injuries thus done by reason of the manifest inefficacy of its means of repression, which it has at all times the power to improve at will, can deliberately decline to respond to any such appeal, full back upon the little that it has attempted as an excuse, and thenceforward claim, with justice, to be released from the inevitable consequences that must ensue from its inaction, then it must surely follow that the only competition between neutral Powers hereafter will be, not which shall do the most, but which shall do the least to fulfil its obligations of interdiction of the industry and enterprise of its people in promoting the conflicts that take place between belligerents on the ocean." ¶ Yet, as far as I can judge, your Secretaries of State alawys maintained that the United States as a neutral Power were „the sole judges of the degree in which it had done its duty under a code of its own making." ¶ But now as to the code. I fully admit that the laws of Congress of 1817 and 1818 differ from the Act of 1794. The chief difference appears to me to lie in the provision that, besides Princes and States specified in the Act of 1794, the Act of 1818 extends to „colony, district, or people." ¶ But so does, in other words, our Act of 1819. There are other differences, however, and to these I suppose you allude. ¶ But, for the reasons which I proceed to state, these other differences (of which I did not lose sight while stating in my former letter that the main provisions of the Act of Congress of 1818 had been adopted in our legislation of 1819, so far as they were considered applicable to the circumstances of this country) have never appeared to her Majesty's government to be of any very material importance. ¶ The 10th section of the Act of Congress of the 20th of April, 1818, requires bonds to be given „by the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof," in double the value of the ship and cargo, against the employment of such ship or vessel, „by such owners," to cruise or commit hostilities against the subjects, etc., of any province or State with whom the United States are at peace. ¶ The 11th section of the Act of Congress of April 20, 1818, is in these words: — „And be it further enacted, that the collectors of the Customs

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be, and they are hereby respectively authorized and required, to detain any vessel manifestly built for warlike purposes, and about to depart for the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign Prince or State, or of any colony, district, or people with whom the United States are at peace, until the decision of the President be had thereon, or until the owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this Act.“ ¶ Now, I contend, first, that for ten years these provisions proved utterly inefficacious to prevent the fitting out of privateers at Baltimore, as shown by the fact that the complaints of the Portuguese Ministers of captures and plundering by American privateers were more frequent, and extended to a larger amount of property after 1818 than they had done from 1816 to 1818. ¶ But, secondly, I observe that the 10th section applies only to vessels which are already armed before they sail out of the ports of the United States, and which belong (wholly or in part) to United States' citizens; and the security taken under this section is only against their employment, „by such owners,“ to cruise, etc., leaving those owners at liberty, without forfeiting their bonds, to transfer the vessels to others who might afterwards so employ them. The 11th section applies only to vessels „manifestly built for warlike purposes,“ and „of which the cargo shall principally consist of arms and munitions of war,“ and I think it is quite clear that had we so amended our law, and had it been found applicable in any cases, the owners of the vessels might easily have given the bonds required, and might as easily have sent their vessels to sea, forfeiting or not forfeiting, as the event might have turned out, the amount of their bonds. The great armies equipped and fed by the Confederates; their vast magazines; the money advanced for the Birkenhead rams, show conclusively that, if her Majesty's government had relied on such provisions as the 10th and 11th sections of the Act of Congress, many vessels, probably including the rams at Birkenhead, would have escaped and have been employed in breaking the blockade of Charleston and other Southern ports. Be that as it may, however, these provisions of the Act of Congress clearly would not be applicable to the Alabama, Florida, Georgia, Shenandoah, and vessels of that class; none of which, when they left this country, were either „armed ships or vessels,“ or had on board any cargo, consisting „principally“ (if at all) „of arms and munitions of war,“ neither would they have been applicable to the ships which carried out arms, etc., to those vessels, but which were themselves neither armed nor „intended to be employed by the owner or owners to cruise or commit hostilities.“ If, therefore, such provisions had been contained in the British statute, they would have proved simply nugatory, and would have added nothing in any of the cases which have actually happened to the powers of prevention given by the Act as it stands. ¶ In that case what would have been our position? We should have been reproached more than ever in America for the insincerity of our proceeding, and our inactivity in executing our own law. Re-

sults would have been appealed to, as you appeal to them in the letter to which I am now giving an answer. ¶ In the case of „the Birkenhead rams," we had first the evidence, in their construction itself, that they were built for warlike purposes; next a copy of the contract by which Mr. Bullock, the Confederate agent, agreed to sell these vessels to M. Bravay; next the proof that their Egyptian names, etc., were only a fiction, the Viceroy of Egypt having positively refused to buy them. These and other circumstances amounted to a presumptive proof that those formidable vessels were intended for the purpose of making war on the United States. You are already aware of the conduct of the government when they had, as in this instance, a case upon which they could proceed. ¶ On the other side, take the case of the Sea King. She was a merchant ship, unarmed, which went from the Thames to a foreign port. Our Foreign Enlistment Act, like yours, requires two things to be proved, — first, that the vessel is fitted out, armed, or equipped for warlike purposes; but, secondly, it is not enough to prove that the vessel is fitted out, armed, or equipped for purposes of war. The warlike intent must be directed against some Prince or State in friendly relations with the Crown of Great Britain. Now, on neither of these points did you furnish us, nor did we possess, a tittle of evidence against the Sea King. Yet you hold us responsible for all the depredations she may have committed on the high seas. ¶ It must not be forgotten that in a free country the Crown cannot act upon mere vague suspicion, without some evidence to submit to a jury; and that trial by jury affords to British subjects the same protection which, in an ordinary state of peace, American citizens enjoy in your own country. ¶ Her Majesty's government desire to be on the most friendly terms with the United States, but are not prepared to accede to any demand which aims at the diminution of our freedom, or which assumes, without warrant from any previously recognized authority or practice, the existence of an extent of obligation on the part of neutrals towards belligerents going beyond any which the government of a free country could have power though acting with entire good faith, punctually to fulfil. ¶ Yet it appears to me, I confess, that as neither the law of the United States nor our own Foreign Enlistment Act have proved upon trial completely efficacious, it is worth consideration whether improvements may not be made in the statutes of both nations, so that, for the future, each government may have in its own territory as much security as our free institutions will permit against those who act in defiance of the intention of the Sovereign and evade the letter of its laws. ¶ I have the honour to enclose a Memorandum in regard to our own conduct during the American war in reference to a passage in your letter (Enclosure No. 1), and a second Memorandum showing in what manner your various complaints during the recent civil war have been disposed of (Enclosure No. 2). ¶ I have, in conclusion, only to repeat, in this the last letter which I shall have the honour to address to you on this subject, my sincere and earnest hopes that our two countries, now both relieved from the stain and the guilt of slavery, may perform their part in the world in peace and goodwill. ¶ I am, etc.

Russell.

To Mr. Adams, *London.*

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Die Anlage 1 behandelt in Erwiderung auf die Amerikanische Note vom 18. September die Zwangsmassregeln, welche Grossbritannien in dem Streite mit den Nordamerikanischen Colonien nach deren Erklärung ihrer Unabhängigkeit ergriff. Es habe denselben nirgends den Charakter von Kriegführenden beigelegt, noch von den Neutralen die Beobachtung der aus dem Kriegszustande entstehenden Pflichten gefordert, es habe sich vielmehr lange Zeit darauf beschränkt, gegen die abgefallenen Provinzen mit Acten der inneren Gesetzgebung und Beschränkung ihres Handels vorzugehen. Im Gegensatze dazu hätten die Vereinigten Staaten schon in den ersten Monaten nach dem Ausbruch des Aufstandes der Südstaaten diese thatsächlich als Kriegführende behandelt, indem der Präsident durch seine Proclamation vom 19. April 1861 die südlichen Häfen in Blokadezustand mit allen aus dem Völkerrechte fliessenden Folgen erklärt habe. Das Verhalten Frankreichs während des Unabhängigkeitskrieges der Vereinigten Staaten sei von früh an ein feindseliges gegen England gewesen und könne nicht in günstigem Sinne mit der streng neutralen Haltung Grossbritanniens während des neulichen Bürgerkrieges in Amerika verglichen werden.

Die Anlage 2 erörtert im Einzelnen die Schritte, welche die englische Regierung in jedem Falle, wo von dem Amerikanischen Gesandten eine Klage wegen Verletzung der „*foreign Enlistment Act*" erhoben worden sei, gethan habe. Die Details werden Fall für Fall in der Reihenfolge, wie die Beschwerden vorgebracht werden, angeführt. Wir heben als Beispiele die Darstellung der Verhandlungen über zwei der bekanntesten conföderirten Kriegsfahrzeuge hervor:

Sumter.

September 30, 1861. — Complaint of the Sumter having been acknowledged as a ship of war at Trinidad by the Governor and the captain of her Majesty's ship Cadmus. ¶ The circumstances had been already reported, and the opinion of the law officers taken (September 16), who decided that no irregularity had been committed. Mr. Adams was informed accordingly. ¶ The Sumter had run the blockade of the Mississippi, whence she went to Puerto Cabello, and then to Trinidad. She was afterwards laid up at Gibraltar, where she was watched by the United States' steamer Tuscarora. While at Gibraltar the captain was assassinated by the lieutenant. The ship was dismantled and sold to a British firm in December, 1862, and came to Liverpool. Her proceedings there occasioned a subsequent correspondence.

Alabama.

June 23, 1862. — Acknowledged, referred to Treasury and law officers, June 25. ¶ A vessel known as the „No. 290", building by Messrs. Laird at Liverpool. Law officers reported (June 30) that there was not sufficient evidence to proceed on, but that the vessel should be watched. The reports received from the Customs were sent to Mr. Adams (July 4), with a suggestion that the United States' Consul at Liverpool should procure further proofs of equipment, &c. Mr. Adams acknowledged, and promised to act on, this suggestion (July 7). He sent further depositions accordingly (July 22 and 24), and accompanied the

latter letter by an opinion of Mr. Collier in favour of seizure. The law officers reported (July 29) that she should be seized; but on the morning of the 29th she had sailed from the Mersey under pretext of a trial trip. A copy of the law officers' opinion was sent to the Bahamas in case of the Alabama going there. She, however, proceeded to Angra-bay, Azores, where she met the Bahama and Agrippina, with her armament, her commander, Captain Semmes, and 42 seamen. She then hoisted the Confederate flag, and sailed for Port Royal, Martinique, next to Blanco Island (belonging to Venezuela), where she coaled, then to Arkas Keys, then destroyed the United States' ship Hatteras, off Galveston, and afterwards to Jamaica, where she was received and recognized as a regularly commissioned ship of war. ¶ She continued her depredations at the Cape of Good Hope and elsewhere, until she was finally sunk by the United States' ship Kearsarge, off Cherbourg, June 19, 1864.

On February 27, 1863, four men of the Naval Reserve having enlisted on board the Alabama, their names were struck off the list by the Admiralty.

Das Folgende ist eine Recapitulation der von dem Amerikanischen Gesandten vorgebrachten Beschwerden und der darauf von der Englischen Regierung ergriffenen Massregeln:

Mr. Adams' representations may be divided into four classes: —

1. Outfit of vessels for the Confederate navy in British ports.
2. Reception of Confederate war vessels in British ports.
3. Enlistments for the Confederate service.
4. Miscellaneous.

I. Outfit of Vessels for the Confederate Navy in British Ports.

It will be seen from the foregoing statement that Mr. Adams complained of no less than 19 vessels, viz.: — 1, the Bermuda; 2, the Oreto, or Florida; 3, the Alabama; 4, the Georgiana; 5, the Phantom; 6, the Southerner; 7, the Alexandra; 8, the Virginia, or Japan (Georgia); 9, 10, the Ironclads; 11, the Canton, or the Pampero; 12, the Rappahannock; 13, the Amphion; 14, the Hawk; 15, the Shenandoah, or Sea King; 16, the Louisa Ann Fanny; 17, the Virginia; 18, the Hercules; 19, the Ajax.

Of these, five subsequently hoisted the Confederate ensign: — The Oreto or Florida, the Alabama, the Virginia or Japan, the Rappahannock, the Shenandoah.

The Oreto or Florida, besides having been watched by the Customs previously to her leaving England, was seized and tried at Nassau and acquitted. She then ran into Mobile, took her armament on board, and through the negligence of the blockading ship, United States' ship Oneida (whose captain, Captain Preble, was dismissed the service in consequence), succeeded in escaping, and issued on her career as a regularly commissioned ship of war, the Florida.

This vessel, therefore, cannot be said to have been equipped or fitted out in a British port, nor can the British home or colonial authorities be accused of any want of activity with regard to her.

No. 1981. Grossbritannien, 3. Nov. 1865.

The Alabama, it is true, succeeded in escaping by a trick on the morning of the very day on which she would have been seized. Her armament was taken on board off Terceira, and her first recognition as a Confederate war vessel was in a French (Port Royal, Martinique) and not a British port.

Virginia or Japan, — this vessel, it will have been observed, sailed before any information of her character had reached her Majesty's government, and was, in fact, taking in her armament in French waters on the very day on which Mr. Adams's representation was dated.

The same thing occurred with regard to the Rappahannock, which was at Calais on the 26th of November, 1863, Mr. Adams's representation not being received until the 28th. In this case, however, the precipitancy with which the vessel was despatched, in an incomplete state, to avoid detention, prevented her ever being available for service, and although she had the Confederate flag flying when she entered Calais, she had neither guns nor ammunition on board.

The Shenandoah, or Sea King, escaped in a similar manner to the Virginia and Rappahannock, and the first intimation that was received of her proceedings was from her Majesty's Consul at Teneriffe, reporting the transfer of crew and armament to her from the Laurel, at the Desertas, off Funchal. In this case, indeed, had information been received in time, it is not probable that she could have been detained, as she was a regular trading vessel, well known as the „Sea King“ in the East India trade.

In fact, as regards all these five vessels, the case may be shortly stated that, in three instances, information was not received in time for her Majesty's government to take any measures of prevention; in one instance the vessel was equipped and armed in a Confederate port, and in the remaining one the ship succeeded in baffling the vigilance of the authorities at the very moment of her intended seizure. The Virginia (Georgia), the Alabama, and the Shenandoah were alike armed and manned in foreign waters.

During the four years of the civil war, from 1861 to 1865, not a single armed ship for the Confederate service was despatched from any port either of Great Britain or the British colonies; and only one vessel, the Alabama, which it could have been possible to detain, escaped for conversion into a cruiser.

On the other hand, on looking at the preceding list, we see that four vessels were proceeded against in England, and thereby prevented from entering the Confederate service — viz., the Alexandra, the two iron-clads, and the Canton or Pampero.

Although the prosecution of the first of these was not successful, it served to detain her for a long period; and a second prosecution, which was instituted at Nassau, has kept her under seizure until the end of the war; the iron-clads, the most formidable of all the intended cruisers, were thus similarly detained, and eventually purchased to avoid further litigation; while the Canton, or Pampero, was condemned and remained in the hands of the Crown until the occasion for her seizure had passed.

The remaining ten vessels denounced by Mr. Adams proved to be ordinary

merchantmen, intended chiefly for running the blockade, which is not an offence amenable to the law.

To these cases may be added the alleged refit of the Sumter, at Liverpool, the report of which proved unfounded.

The list includes all the suspected vessels in British ports, with the exception of two --the Almandares and Pinero, which were alleged, though not by Mr. Adams, to be equipping at Montreal. No case was made out. (Colonial-office, February 9, 1865.)

When the delay in seizing the Alabama is so severely criticized by Mr. Adams, it must be remembered that in the two preceding representations his information had proved to be erroneous, the Bermuda being evidently not intended for a ship of war, and the Oreto having been found innocent in a court of law. The latter was subsequently converted into a cruiser, but the readiness with which a merchant vessel can be made available for belligerent purposes has been shown by the fact that the most efficient blockading ships in the Federal navy were captured blockade-runners.

Proceedings taken with regard to Vessels.

Five prosecuted: — 1, Oreto, at Nassau; 2, Alexandra, in England and at Nassau; 3, 4, Ironclads; 5, Canton or Pampero.

Also orders given to detain the Alabama had she touched at Queenstown or Nassau after her evasion from Liverpool.

The Governor of the Bahamas was likewise instructed to watch other vessels regarding which representations had been made, as the Louisa Ann Fanny, &c.

Prosecutions for Engagement of Men for Confederate Service.

1. Mr. Rumball (Rappahannock), acquitted.
2. Jones and Highat (Georgia and Florida), convicted.
3. Campbell (Georgia), convicted.
4. Seymour, Cunningham, and Buchanan (Rappahannock), convicted.
5. Captain Corbett (Shenandoah), case pending.

When it was found that such vessels as the Rappahannock and Amphion, although useless to her Majesty's navy, might be reconverted into Confederate cruisers, instructions were given that no more ships should be sold out of her Majesty's navy.

Moreover, when Captain Osborn's fleet returned from China, and it was feared that the vessels composing it might fall into Confederate hands, her Majesty's government interposed both in India and England to prevent their sale.

When the sale and conversion of the Georgia was complained of, a Customs' notification was published, forbidding vessels of war to be sold and dismantled in British ports.

Finally, as will have been shown by the preceding statement, every representation of Mr. Adams was considered immediately on its receipt, and referred, when requisite, to the law officers or other departments of her Majesty's government, without even a day's delay.

No. 1982.

CONFÖDERIRTE STAATEN. — Der Commandeur der Shenandoah an den Kön. Grossbrit. Min. d. Ausw. — Uebergabe des Schiffs an die Englische Regierung*) mit Bericht über die Ereignisse nach Unterwerfung der Südstaaten. —

Steamer Shenandoah, November 5, 1865.

No. 1982. Conföderirte Staaten, 5. Nov. 1865.

My Lord, — I have the honour to announce to your Lordship my arrival in the waters of the Mersey, with this vessel, lately a ship of war in my command belonging to the Confederate States of America. ¶ The singular position in which I find myself placed, and the absence of all precedents on the subject, will, I trust, induce your Lordship to pardon a hasty reference to a few facts connected with the cruise lately made by this ship. I commissioned the ship in October, 1864, under orders from the Naval Department of the Confederate States; and, in pursuance of the same, commenced actively cruising against the enemy's commerce. My orders directed me to visit certain seas in preference to others. In obedience thereto, I found myself in May, June, and July of this year in the Oksotsz Sea and Arctic Ocean. Both places, if not quite isolated, are still so far removed from the ordinary channels of commerce, that months would elapse before any news could reach there as to the progress or termination of the American war. ¶ In consequence of this awkward circumstance I was engaged in the Arctic Ocean in acts of war so late as the 28th day of June, in ignorance of the series of reverses sustained by our arms in the field, and the obliteration of the government under whose authority I had been acting. This intelligence I received for the first time on communicating at sea on the 2d of August with the British bark Barra Couta, of Liverpool, 14 days from San Francisco. Your Lordship can imagine my surprise at the receipt of such intelligence, and I would have given to it little consideration if an Englishman's opinion did not confirm the war news, though from an enemy's port. ¶ I desisted immediately from further acts of war, and determined to suspend further action until I had communicated with an European port, when I would learn if that intelligence was true. It would not have been intelligent in me to convey this vessel to an American port, simply because the master of the Barra Couta had said the war was ended. I was in an embarrassing position. I diligently examined all the law writers at my command, searching a precedent for my guidance in the future control, management, and final disposal of the vessel. I could find none. History is, I believe, without a parallel. Finding the authority questionable under which I considered this vessel a ship of war, I immediately discontinued cruising, and shaped my course for the Atlantic Ocean. ¶ As to the ship's disposal I do not consider that I have any right to destroy her, or any further right to command her. On the contrary, I think that as all the property of the Confederate government has reverted, by the fortune of war, to the government of the United States of North America, that therefore this

*) Das Schiff wurde hiernächst von der Englischen Regierung dem Consul der Vereinigten Staaten in Liverpool überliefert, die Mannschaften zuvor, nach anfänglicher Bewachung, auf freien Fuss gesetzt.

vessel, inasmuch as it was the property of the Confederate States, should accompany the other property already reverted. I have, therefore, sought this port as a suitable one to learn the news, and, if I am without a government, to surrender the ship, with her battery, small arms, machinery, stores, tackle, and apparel complete to her Majesty's government for such disposition as in its wisdom should be deemed proper. ¶ I have the honour, &c.

No. 1982. Conföderirte Staaten, 5. Nov. 1865.

Jas. J. Waddell, Commander.

No. 1983.

KIRCHENSTAAT. — Allocution des Papstes, gehalten im Consistorium vom 25. Sept. 1865, die Freimaurerei und andere geheime Gesellschaften betr. —

[Uebersetzung aus dem Lateinischen.]

Ehrwürdige Brüder!

No. 1983. Kirchenstaat, 25. Sept. 1865.

Unter die vielfachen Machinationen und Künste, mit denen die Feinde des christlichen Glaubens die Kirche Gottes anzugreifen und, wenn auch mit vergeblichem Versuche, zu schwächen und auszurotten gewagt haben, muss, ehrwürdige Brüder, ohne Zweifel auch jene verderbte Gesellschaft gezählt werden, die gewöhnlich mit dem Namen „Freimaurergesellschaft“ (societas, quae vulgo nuncupatur maconica) bezeichnet wird, zuerst im Finstern ihr Wesen treiben musste und dann zum gemeinsemen Verderben der Religion und der menschlichen Gesellschaft hervorbrach. Gleich nachdem die römischen Päpste, unsere Vorgänger, die Fallstricke und Ränke dieser Gesellschaft entdeckt hatten, haben sie, eingedenk ihrer Hirtenpflicht, nicht zögern zu dürfen geglaubt, um jene nach Verbrechen eifrigst trachtende und Vieles und Ruchloses gegen Kirche und Staat anstrebende Gesellschaft durch ihre Autorität im Zaume zu halten und durch ihr verdammendes Urtheil wie mit einem Wurfgeschosse niederzuschmettern. So hat Clemens XII., unser Vorgänger, mit seinem apostolischen Schreiben diese Secte geächtet und verworfen und alle Gläubigen durch Androhung der Strafe der Excommunication, die nur durch den römischen Papst wieder aufgehoben werden könnte, von einer Verbindung mit dieser Gesellschaft und jeder Förderung und Unterstützung derselben abgeschreckt. Diese gerechte und gebührende Verurtheilung hat Benedict XIV. bestätigt und nicht unterlassen, die höchsten katholischen Fürsten zu ermahnen, dass sie mit aller Sorge und jeder Kraft zur Ausrottung dieser verderbtesten Secte und zur Abwendung der gemeinsamen Gefahr beitragen mögen.

Hätten nur jene hohen Fürsten der Stimme unseres Vorgängers Gehör geschenkt und wären sie in so hochwichtiger Sache nicht schlaff zu Werke gegangen, so hätte man auch nie Anlass gehabt, in unserer und unserer Väter Zeit solche aufrührerische Bewegungen, solche Kriegsfurie, in denen ein allgemeiner Brand das gesammte Europa verheerte, und so herbe Uebel zu beklagen, unter denen die Kirche litt und noch immer zu leiden hat.

Als die Wuth der Ruchlosen sich nicht im mindesten zur Ruhe begeben

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wollte, hat unser Vorgänger Pius VII. die in neuerer Zeit in Italien entstandene und weit verbreitete Secte der Carbonari mit dem Anathema belegt; der von gleichem Eifer für das Heil der Seelen durchglühte Leo XII. hat sowohl die vorerwähnten, als auch alle wie immer benannten geheimen Gesellschaften, die gegen die Kirche und die weltliche Gewalt conspiriren, in einem apostolischen Schreiben verurtheilt und jede Theilnahme unter Strafe der Excommunication allen Gläubigen verboten.

Diese eifrigen Bemühungen des apostolischen Stuhles hatten jedoch nicht den Erfolg, den man hätte erwarten können. Die Freimaurersecte, von der wir gesprochen haben, ist nämlich nie bezwungen und verboten worden; sie hat sich im Gegentheil so weit verbreitet, dass sie in den jetzigen so überaus schwierigen Zeitläuften aller Orten sich ungestraft ihres Treibens rühmt und nur noch kühner hervortritt.

Wir haben daher diesen Gegenstand neuerdings zu berühren für angezeigt erachtet, weil Viele vielleicht in der Unkenntniss der ruchlosen Rathschläge, die in jenen geheimen Zusammenkünften besprochen werden, der falschen Ansicht sind, dass diese Gesellschaft ganz unschädlich und nur dazu eingesetzt sei, um die Menschheit zu unterstützen und ihr in ihren Drangsalen beizuspringen, dass daher von ihr für die Kirche kein Nachtheil zu finden sei.

Wem sollte jedoch nicht bekannt sein, wie sehr diese Ansicht im Widerspruch zur Wahrheit steht? Welche Bedeutung hätten denn diese gemeinsamen Berathungen von Männern was immer für einer Religion und was immer für eines Glaubens? Was will man mit jenen geheimen Zusammenkünften, was mit dem strengen, dort geleisteten Eide, den die neu Eintretenden darauf ablegen, dass sie nie bekannt geben wollen, was die Gesellschaft angeht? Worauf zielt endlich jene unerhörte Grausamkeit der Strafen ab, denen sie sich verfallen erklären, wenn sie ihren Eid verletzen sollten?

Wahrlich, es muss eine verbrecherische und ruchlose Gesellschaft sein, die den Tag und das Licht so sehr scheut; wer nämlich Böses thut, der hasst das Licht, wie der Apostel schreibt. Wie sehr verschieden von dieser sind jene frommen, in der katholischen Kirche blühenden Gesellschaften der Gläubigen! In ihnen ist nichts verborgen und verheimlicht; die Gesetze, nach denen sie verwaltet werden, sind aller Welt offen, und offen liegen auch die Werke der christlichen Liebe da, die von ihnen nach der Lehre des Evangeliums geübt werden. Sehen wir aber jetzt nicht mit Schmerz, wie man an manchen Orten diese zur Anregung der Frömmigkeit so heilsamen und zur Unterstützung der Armen so geeigneten katholischen Genossenschaften anfeindet und sogar vernichtet, während die im Dunkeln wirkende, der Kirche Gottes so feindliche und der Sicherheit der Reiche so gefährliche Freimaurergesellschaft begünstigt oder zum mindesten geduldet wird?

Ehrwürdige Brüder, nur schwer und gekränkt ertragen wir es, dass wir bezüglich dieser im Sinne der Erlässe unserer Vorgänger verwerflichen Secte Einige, die in so ernster Sache nach der Natur ihres Amtes und ihrer Pflicht sehr eifrig sein sollten, träge und wie im Schlummer befangen erblicken. Wenn diese Leute denken, dass die apostolischen Constitutionen, welche bei Strafe des Ana-

thems gegen die geheimen Secten, ihre Anhänger und ihre Gönner erlassen sind, keine Kraft haben in den Ländern, wo besagte Secten von der weltlichen Gewalt geduldet werden, so befinden sie sich sicherlich in einem grossen Irrthum. Wie ihr es bereits wisst, ehrwürdige Brüder, haben wir die Falschheit dieser schlechten Lehre bereits getadelt und wir tadeln und verdammen sie heute aufs neue. Denn in der That, die höchste Gewalt, die allgemeine Heerde zu weiden und zu leiten, welche die römischen Päpste in der Person des h. Petrus von Christus empfingen, und die höchste Gewalt, die sie in der Kirche ausüben müssen, dürfen diese von der weltlichen Gewalt abhängen oder können sie aus irgendeiner Ursache von ihr gezwungen oder eingeengt werden?

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Unter diesen Umständen haben wir, damit nicht minder vorsichtige Menschen und die Jugend vorzugsweise sich möchten verleiten lassen und damit nicht unser Stillschweigen Gelegenheit gebe, den Irrthum zu schützen, den Beschluss gefasst unsere apostolische Stimme zu erheben, und indem wir hier in eurer Versammlung die Constitutionen unserer Vorgänger bestätigen, tadeln und verdammen wir kraft unseres apostolischen Amtes diese Freimaurergesellschaft und die anderen Gesellschaften derselben Art, welche, obgleich unter anderer Form, nach demselben Ziele streben, und welche, sei es nun offen oder sei es heimlich, sich gegen die Kirche und die legitime Gewalt verschwören, und wir wollen, dass die benannten Gesellschaften von allen Christengläubigen was immer für Ranges und Standes aller Orten als von uns geächtet und verworfen betrachtet werden, unter denselben Strafen, wie sie unsere Vorgänger in den erwähnten Constitutionen bestimmt haben.

Jetzt erübrigt uns noch, um der Sorge unseres väterlichen Herzens Genüge zu leisten, die Gläubigen, die sich den Secten dieser Art sollten angeschlossen haben, zu warnen und anzuspornen, dass sie vernünftigeren Eingebungen zu gehorchen und diese verderblichen Versammlungen aufzugeben haben, auf dass sie nicht in den Abgrund des ewigen Verderbens hinabgezogen werden; was die übrigen Gläubigen betrifft, so ermahnen wir sie in unserer dringlichen Sorge für ihr Seelenheil ernstlich, dass sie sich wahren vor den hinterlistigen Reden der Sectirer, welche unter dem Anscheine einer gewissen Rechtschaffenheit von glühendem Hass gegen die Religion Christi und die rechtmässigen Regierungen entflammt sind und die nur einen Gedanken, nur ein Ziel haben, nämlich alle göttlichen und menschlichen Rechte umzustürzen. Mögen sie es wohl bedenken, dass die Anhänger solcher Secten sind wie die Wölfe, von denen unser Herr Jesus Christus prophezeit hat, sie würden kommen im Schafpelze und die Heerde zerreissen. Mögen sie wohl wissen, dass sie zur Zahl derer gehören, deren Gemeinschaft uns der Apostel so sehr verboten hat, dass er uns beredter Weise sogar verboten, ihnen auch nur einen Gruss (Ave) zu sagen. Möge der erbarmungsreiche Gott unser aller Gebete erhören, mögen die Unsinnigen mit Hülfe seiner Gnade zur Vernunft zurückkehren und die irregeleiteten Menschen wieder auf die Bahn der Gerechtigkeit einlenken. Möge Gott geben, dass nach Unterdrückung der Wuth dieser entarteten Menschen, welche mit Hülfe der oben genannten Gesellschaften Gottloses und Verbrecherisches im Sinne haben, die Kirche und die menschliche Gesellschaft sich endlich

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von den zahlreichen und eingenisteten Uebeln erholen können! Auf dass unsere Wünsche erhört werden, wollen wir auch zu unserer Fürsprecherin beim barmherzigen Gott beten, zur allerheiligsten Jungfrau, seiner von Geburt an unbefleckten Mutter, der es gegeben ist, die Feinde der Kirche und die Ungeheuer des Irrthums zu zermalmen. Gleichfalls wollen wir um den Schutz der seligen Apostel Petrus und Paulus flehen, durch deren glorreiches Blut diese edle Stadt geweiht worden ist. Wir hegen die Zuversicht, dass mit ihrer Hülfe und mit ihrem Beistande wir leichter zu demjenigen gelangen, um das wir die göttliche Güte anrufen.

No. 1984.

PREUSSEN.*) — Bericht d. vereinigten Commissionen des Hauses der Abgeordneten für Finanzen und Zölle und für Handel und Gewerbe über die zur Erneuerung des Zollvereins abgeschlossenen Verträge.**)

[Auszug.]

No. 1984. Preussen, 24. März 1865.

Die vorliegenden Verträge bilden den Abschluss der $2^1/_2$jährigen Verhandlungen, welche zwischen Preussen und den Regierungen der übrigen Zollvereinsstaaten über die Annahme der mit Frankreich unterm 2. August 1862 unterzeichneten Verträge, und, nachdem die Durchführung derselben nicht ohne Kündigung der Zollvereins-Verträge zu erzielen war, über die Erneuerung der letzteren geführt worden sind. Die Königliche Staats-Regierung hat in der den Zollvereins-Verträgen beigefügten Denkschrift einen kurzen Rückblick auf diese Verhandlungen geworfen. Es wird zweckmässig sein, denselben hier in einigen Beziehungen zu ergänzen. ¶ Die unter dem 2. August 1862 unterzeichneten Verträge waren bald nach ihrer am 29. März 1862 erfolgten Paraphirung unterm 26. Mai desselben Jahres den beiden Häusern des Landtages zur verfassungsmässigen Zustimmung vorgelegt. Dieselbe erfolgte auf Grund der unterm 11. Juli, 28. Juni und 2. Juli von den vereinigten Commissionen für Finanzen und Zölle und für Handel und Gewerbe erstatteten Berichte in der Sitzung des Abgeordnetenhauses vom 25. Juli 1862 nach dreitägiger Debatte mit 264 gegen 12 Stimmen. Das Herrenhaus sprach seine Genehmigung in der Sitzung vom 1. August 1862 einstimmig aus. ¶ In Folge der Zustimmung beider Häuser des Landtages erfolgte von Seiten Preussens die Unterzeichnung der Verträge am 2. August desselben Jahres, und wurden in dem über die Unterzeichnung auf-

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*) Die Herausgeber des Staatsarchiv hätten gewünscht, die späteren Verhandlungen, welche zu der Erneuerung der Zollvereinsverträge geführt haben, mit derselben Ausführlichkeit darstellen zu dürfen, wie dieses in Beziehung auf einen früheren Abschnitt der Deutschen handelspolitischen Krisis (No. 420 bis 463) geschehen ist. Da Dem jedoch zur Zeit noch Rücksichten der Schonung nach erreichter Verständigung entgegenstehen, so müssen sie sich darauf beschränken, die, eine Uebersicht der Vorgänge gewährenden Berichte des Preussischen Abgeordnetenhauses über die Zollvereinsverträge aus dem Handelsvertrag mit Oesterreich, sowie einzelne bereits in die Oeffentlichkeit gelangte Actenstücke hier wieder zu geben. Demnächstige Vervollständigung bleibt vorbehalten.

**) No. 1702—1705 und 1772.

genommenen Protokolle zugleich die Verträge in einigen Punkten erläutert, wie dies namentlich von der Königlich Sächsischen Regierung, welche zuerst von allen Zollvereins-Regierungen ihren Beitritt erklärt hatte, gewünscht worden war. ¶ Schon vor der Unterzeichnung der Verträge hatten denselben ausser der Königlich Sächsischen auch die Grossherzoglich Oldenburgische Regierung, ferner die zum Thüringischen Zoll- und Handelsvereine gehörenden Regierungen von Sachsen-Weimar, Sachsen-Meiningen, Sachsen-Altenburg, Sachsen-Koburg-Gotha, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Reuss ältere und Reuss jüngere Linie, ihre Zustimmung ertheilt, die Grossherzoglich Badensche Regierung sie ihren Ständen mit der Empfehlung zur Annahme vorgelegt. In dem bei der Unterzeichnung aufgenommenen Protokoll hatte Frankreich den dringenden Wunsch ausgesprochen, dass um die rechtzeitige Ausführung der Verträge zum 1. Januar 1863 zu ermöglichen, auf die Beschleunigung der Erklärungen der mit ihren Aeusserungen noch rückständigen Zollvereins-Staaten hingewirkt werde. Man hoffte also damals noch, dass die Auswechselung der Ratificationen am 31. October 1862 erfolgen könne. Nach der Unterzeichnung erfolgte noch die Zustimmung der Herzoglich Braunschweigischen Regierung, wogegen Bayern und Württemberg unter dem 8. resp. 11. August 1862 die Ablehnung der Verträge aussprachen und auf Grund dieser Ablehnung die Königlich Hannöversche Regierung unterm 16. August *) die Erklärung hierher gelangen liess, dass, da schon die Aeusserung Bayerns die Aussicht auf ein Zustandekommen der projectirten Verträge zur Zeit abschneide, für sie selbst keine Veranlassung mehr vorliege, die ihrerseits über Annahme oder Ablehnung der Verträge gepflogenen Erwägungen zu einer endlichen Beschlussfassung gegenwärtig fortzuführen. ¶ Aus derselben ablehnenden Erklärung Bayerns uad Württembergs nahm endlich Oesterreich Veranlassung, wiederholt auf Eröffnung der Verhandlungen über seine bekannten Propositionen vom 10. Juli 1862 **) zu dringen. In einer Depesche des Grafen Rechberg vom 21. August 1862 ***) wurde, davon ausgehend, dass nunmehr unzweifelhaft feststehe, dass der Zollverein den Vertrag mit Frankreich verwerfe, die Bedingung also, an welche von Preussischer Seite der Beginn der Verhandlungen mit Oesterreich geknüpft worden war (die Annahme der mit Frankreich abgeschlossenen Verträge durch den Zollverein), nicht mehr eintreten könne, das Ansinnen an das diesseitige Cabinet gestellt, nunmehr auf die von Oesterreich beantragten Unterhandlungen über die Zolleinigung oder weitergehenden Verkehrserleichterungen und über möglichste Annäherung und Gleichstellung der beiderseitigen Tarife auf Grund des Art. 25 des Vertrages vom 19. Februar 1853 einzugehen. ¶ Die Königliche Staatsregierung ging indessen davon aus, dass die Erklärungen der Regierungen von Bayern und Württemberg keineswegs ihr letztes Wort seien, dass vielmehr der Weg der Verhandlungen mit den Zollvereinsstaaten zum Zweck der Durchführung der Verträge vom 2. August 1862 noch fortzuführen sei. Sie erliess unterm 26.

*) No. 452; auch eine wiederholte Ablehnung den 18. Sept.; No. 453.

**) No. 430.

***) No. 444.

No. 1984. Preussen, 24. März 1865.

August 1862*) eine Depesche an den diesseitigen Gesandten in München, worin sie die sachlichen Bedenken Bayerns widerlegte und unter klarer Darlegung der Stellung Preussens zu einer nochmaligen Erwägung der Sache aufforderte. ¶ „Wir können", heisst es am Schluss jener Depesche des Grafen Bernstorff, „die Hoffnung nicht aufgeben, dass die Königlich Bayerische Regierung, bei nochmaliger Erwägung der Sache, um welche wir sie ersuchen, in Berücksichtigung dieser Bemerkungen und unserer erst nach Abgang der Note vom 8. d. M. zu ihrer Kenntniss gelangten Mittheilungen vom 5. und 6. d. M. ihre Zustimmung einem Werke nicht werde vorenthalten wollen, welches nach unserer von einem Theil unserer Zollverbündeten getheilten, durch die einmüthige Zustimmung unserer Landesvertretung befestigten Ueberzeugung den Interessen des Zollvereins entspricht. Wir für unsern Theil werden auf dem Boden der Verträge vom 2. August beharren. Wir halten dabei fest an dem Wunsche, dass der Zollverein auch die gegenwärtigen Schwierigkeiten überwinden möge, und in seinem segensreichen Wirken erhalten bleibe. Wir können aber die Grundlage dazu nur in der Durchführung der Grundsätze des Tarifs erblicken, welcher am 2. August unterzeichnet ist. Wir wünschen endlich auch unsererseits eine angemessene Regelung der commerziellen Verhältnisse des Zollvereins zu Oesterreich; aber von Verhandlungen darüber glauben wir uns einen Erfolg erst versprechen zu können, wenn die gegenwärtigen aus jenen Verträgen hergeleiteten Schwierigkeiten geebnet sind. Ich kann daher die Ansicht des Königlich Bayerischen Herrn Ministers nicht theilen, wenn er seine, die Verträge vom 2. August ablehnende Erklärung damit schliesst, dass die Königlich Bayerische Regierung sich gleichwohl den Trost nicht versagen könne, dass der Zollverein auch in seiner jetzigen Lage keinen ernstlichen Gefahren entgegengehe. Ich bin es vielmehr dem Ernste der Lage schuldig, offen auszusprechen, dass wir eine definitive Ablehnung der Verträge vom 2. d. Mts. als den Ausdruck des Willens auffassen müssen, den Zollverein mit uns nicht fortzusetzen." ¶ Inzwischen hatte die Königliche Staatsregierung unter dem 9. August 1862 einen Gesetzentwurf, betreffend die Eingangs- und Ausgangsabgaben, den Häusern des Landtages vorgelegt, durch welchen die Verallgemeinerung des im Handelsvertrage vom 2. August 1862 für die Einfuhr aus Frankreich verabredeten Tarifs (*B*) ausgesprochen wurde. Während der Berathung dieser Vorlage in den vereinigten Commissionen für Finanzen und Zölle und für Handel und Gewerbe, ging jene nach München gerichtete Depesche vom 26. August ab, und dieselbe wurde von der Staatsregierung der Commission mitgetheilt. Die Commission nahm hieraus Veranlassung, dem Hause neben der Genehmigung des Gesetzentwurfs die Annahme folgender Erklärung zu empfehlen: Das Haus der Abgeordneten befindet sich in voller Uebereinstimmung mit der von der Königlichen Staatsregierung abgegebenen Erklärung: dass sie auf dem Boden der Verträge vom 2. August d. J. beharre und demgemäss die definitive Ablehnung dieser von Preussen Namens und im Auftrage des Zollvereins verhandelten Verträge Seitens einzelner Zollvereinsregierungen als den Ausdruck des Willens auffassen müsse, den Zollverein mit Preussen nicht fortzusetzen, — und spricht demgemäss die Erwartung aus: — „die

*) No. 445.

No. 1984. Preussen, 21. März 1865.

Königliche Staatsregierung werde, insofern einzelne Zollvereinsregierungen in ihrer ablehnenden Haltung beharren sollten, diejenigen Massnahmen treffen, welche nothwendig sind, um die Reform des Zollvereins-Tarifs nach Massgabe des Tarifs *B.* zum Handelsvertrage vom 2. August d. J. beim Ablauf der gegenwärtigen Zollvereins-Verträge durchzuführen." ¶ Bei der Berathung dieser Vorlage im Hause der Abgeordneten in der Sitzung vom 5. September 1862 erklärte der damalige Finanzminister v. d. Heydt: „Was nun die von der Commission vorgeschlagene Resolution betrifft, so kann die Regierung nur mit lebhafter Befriedigung daraus das Einverständniss entnehmen, welches darin mit ihrer bisherigen Haltung zu erkennen gegeben ist. — ¶ Die Regierung giebt auch heut die Hoffnung noch nicht auf, dass diejenigen Regierungen, welche die Zustimmung vorläufig beanstandet haben, im wohlerwogenen Interesse des Gesammtvereins ihre Zustimmung nach näherer Erwägung noch ertheilen werden. ¶ Möchte aber der unerwünschte Fall eintreten, den der zweite Theil der Resolution ins Auge fasst, so kann die Regierung nur grossen Werth darauf legen, sich bei ihren weiteren Schritten im vollsten Einverständniss mit der Landesvertretung zu finden. ¶ Dieses Einverständniss findet sich im zweiten Theil der Resolution, denn die Regierung beharrt bei der Ueberzeugung, dass bei der Erneuerung der Vereinsverträge eine Reform des Zolltarifs nur auf Grundlage der Bestimmungen des Handelsvertrages einzutreten habe." — ¶ Nach Annahme des Gesetzentwurfs beschloss das Haus auch die von der Commission vorgeschlagene Erklärung mit 232 gegen 26 Stimmen. ¶ Nachdem auch das Herrenhaus dem Gesetzentwurf und dieser Resolution beigetreten war, hatten also alle drei Factoren der Gesetzgebung, die beiden Häuser mit nahe an Einstimmigkeit grenzenden Majoritäten sich auf das Bestimmteste für die Durchführung des Handelsvertrages und der auf denselben sich gründenden Reformpolitik im Zollverein ausgesprochen und in voller Klarheit den Weg bezeichnet, auf welchem Preussen den Widerstand zu überwinden hätte. ¶ Die Königliche Staatsregierung hielt zunächst an dem Versuche fest, durch Notenwechsel mit den Regierungen von Bayern und Württemberg, denen sich auch Nassau und Hessen-Darmstadt anschlossen, auf deren Ueberzeugung einzuwirken. ¶ Die Antwort Bayerns auf die oben erwähnte Depesche vom 26. August erfolgte in einer Depesche des Freiherrn v. Schrenck an den Bayerischen Gesandten in Berlin vom 23. September*). Dieselbe erklärte: „Auch die wiederholte Prüfung habe nicht vermocht, die Ansicht der Bayerischen Regierung über den vorliegenden Zoll- und Handelsvertrag mit Frankreich zu modificiren. Es scheine nothwendig, vor Allem die Gründe, auf welchen die Ablehnung Bayerns beruhe, nochmals kurz und bestimmt zusammen zu fassen, weil durch eine solche übersichtliche Zusammenstellung und durch offene Erörterung der hierüber bestehenden Meinungsverschiedenheiten nicht blos die Kenntniss des beiderseitigen Standpunkts erleichtert, sondern auch der Weg angebahnt werden könne, zu einer Verständigung zu gelangen, welche diesseits nur gewünscht werden könne und durch Aenderung einiger Bestimmungen des proponirten Vertrages mit Frankreich und Rücksichtnahme auf den Februar-Vertrag mit Oesterreich auch wohl ohne besondere Schwierigkeiten herbeigeführt werden könnte."

*) No. 455.

No. 1984. Preussen, 24. März 1865.

¶ Die Gründe der Ablehnung, welche die Depesche anführt, gehen im Wesentlichen dahin, dass Leistungen und Gegenleistungen in dem Vertrage nicht im richtigen Verhältniss zu einander ständen, dass manche der Tarifherabsetzungen dem wahren Interesse der Vereins-Industrie nicht entsprächen und daher nicht angenommen werden könnten, dass auch einzelne Vertragsartikel den Interessen und der Stellung des Vereins nicht entsprechend, und weder durch die Natur der Sache, noch durch die Gegenleistungen Frankreichs genügend begründet seien. Endlich ging die Königlich Bayerische Regierung noch von der Ansicht aus, „dass die Vertragsverhältnisse zu Oesterreich, namentlich der Art. 25 des Vertrags vom 19. Februar 1853, es nothwendig machen, die Beziehungen zu Oesterreich entweder vor Abschluss eines Vertrages mit Frankreich, oder gleichzeitig mit demselben ins Auge zu fassen und zu ordnen. So lange die Fassung des Vertrages der Bayerischen Regierung unbekannt war, vermochte sie natürlich nicht zu beurtheilen, in wie weit dieselbe mit dem Vertrage vom 19. Februar 1853 vereinbarlich sei oder nicht. Als ihr aber der Vertragsentwurf mitgetheilt worden, hat sie ihre Ansicht hierüber unumwunden dargelegt und in der Note vom 8. v. Mts. ausführlich motivirt. Sie ist hiernach zu der Ansicht gelangt, dass der Zollverein zu einem Vertragsabschlusse, wie der vorliegende, rechtlich nicht befugt sein könne, da ihm derselbe den Vollzug der im Art. 25 des Vertrages vom 19. Februar 1853 übernommenen Verpflichtungen thatsächlich unmöglich machen würde.“ ¶ In einem ähnlichen Sinne antwortete die Württembergische Regierung in einer Depesche des Freiherrn v. Hügel vom 20. September 1862 *), nur dass in dieser, sowie in der aus Darmstadt ergangenen Antwort, die Ablehnung der Verträge vom 2. August 1862 noch entschiedener ausgesprochen wurde. Die Preussische unterm 12. November 1862 nach München gerichtete Antwortsdepesche trägt bereits die Unterschrift des Herrn v. Bismarck. Dieselbe constatirt, dass die Regierungen von Württemberg und dem Grossherzogthum Hessen in ihren Rückäusserungen „die Zustimmung zu den Verträgen mit Frankreich entschieden versagt haben, und dass Preussen darin nur den Ausdruck ihres Willens habe erblicken können, den Zollverein mit Preussen über die Dauer der gegenwärtig laufenden Vertragsperiode nicht festzusetzen.“ ¶ „Indem“, heisst es weiter, „dagegen in der Depesche des Freiherrn v. Schrenck nicht nur der Wunsch nach einer Verständigung, sondern auch die Ansicht ausgesprochen wird, dass diese Verständigung wohl ohne besondere Schwierigkeiten herbeigeführt werden könne, glaube ich die Hoffnung nicht aufgeben zu können, dass man Königlich Bayerischer Seits noch eine Annäherung in Aussicht genommen habe. Wenn diese Voraussetzung keine irrthümliche ist, so würden wir einer nähern Aeusserung des Herrn Freiherrn v. Schrenck gern entgegensehen.“ ¶ Ehe von Seiten der Bayerischen Regierung eine Antwort hierauf erfolgte, lud dieselbe die Bevollmächtigten der Zollvereins-Staaten zu der bis dahin ausgesetzten 15. General-Zollconferenz zum Januar 1863 nach München ein. Da schon in der 14. Conferenz München als der nächste Versammlungsort bestimmt

*) No. 454.

No. 1984. Preussen, 24. März 1865.

worden war, so lag es in dem Herkommen begründet, dass die Bayerische Regierung die Einladung erliess. In derselben bezeichnete sie ausdrücklich die Berathung der Oesterreichischen Vorschläge vom 10. Juli 1862*) als einen der Gegenstände der Tages-Ordnung dieser General-Conferenz. ¶ Unter dem 31. December 1862 richtete dann der Freiherr v. Schrenck eine Depesche nach Berlin**), in welcher er unter Bezugnahme auf die Preussische Depesche vom 12. November, sich über die Wege zur Verständigung folgendermassen ausliess: „Da die bevorstehende General-Conferenz als der geeignetste vertragsmässige Weg zu einer gemeinsamen Erörterung mit der Hauptfrage in unmittelbarer Verbindung steht, glaube ich auch die von der Bayerischen Regierung bei deren Einleitung ins Auge gefassten Rücksichten näher erläutern zu sollen. Das Bedenkliche der gegenwärtigen Krisis und die gemeinsame Gefahr, die sie für alle Mitglieder des Zollvereins in sich schliesst, wird wohl von allen Seiten in gleicher Weise erkannt und berücksichtigt werden. Ebenso wird wohl auf keiner Seite in Abrede gestellt werden, dass eine Beseitigung derselben, weder durch eine Fortsetzung der bisherigen Discussion, noch auch durch blosse Zurückweisung der entgegenstehenden Ansichten und Anträge, sondern nur durch offene Rückkehr zu einem allseitig anzuerkennenden Standpunkt, auf welchem sich alle Theile mit gleichem Rechte und gleicher Freiheit zu bewegen vermögen, erreicht werden kann. Dieser Standpunkt ist nach diesseitiger Ansicht der des Rechts; und eine gemeinsame Erörterung auf dieser Grundlage vermag allein die Hoffnung einer allmäligen Annäherung der differirenden Ansichten zu rechtfertigen. Wenn die Vereins-Regierungen bestrebt sein wollen, sich streng an die Bestimmungen der Vereins-Verträge zu halten, und sowohl in der Geltendmachung eigener, als in der Beurtheilung fremder Ansprüche sich nur auf die Grenzen des Rechts zu beschränken, so wird die Beurtheilung fremder, wie der eigenen Interessen und sonstigen Rücksichten bald eine versöhnlichere werden, und es kann dies nur zu einer Annäherung und Ausgleichung führen. Es wird demnach für keinen Theil mehr ein Motiv bestehen, gemeinsame Erörterungen zurückzuweisen, vielmehr jedem Theil gleichmässig daran liegen, durch gemeinschaftliche Verhandlungen den gesammten Stand der Frage aufzuklären und alle Nebenrücksichten aus denselben zu entfernen. Gestützt auf diese Voraussetzung habe ich in meiner Depesche am 23. September l. J.***) die Rücksichtnahme auf den Februar-Vertrag mit Oesterreich und eine angemessene Aenderung des proponirten Vertrags mit Frankreich, als diejenige Grundlage bezeichnet, auf welcher eine Verständigung erzielt werden könne.“ ¶ Diese Andeutung scheint jedoch nicht in dem Sinne aufgefasst zu sein, in welchem sie gemeint war, denn sonst würde schwerlich der unseres Erachtens der Sachlage nicht angemessene Ausspruch wiederholt worden sein: dass die Königlich Preussische Regierung die Verweigerung der Zustimmung zu den Verträgen mit Frankreich als den Ausdruck des Willens der betreffenden Regierungen betrachte, den Zollverein mit Preussen über die Dauer

*) No. 430.

**) No. 1986.

***) No. 455.

No. 1981. Preussen, 24. März 1865.

der gegenwärtigen Vertrags-Periode hinaus nicht fortzusetzen, dieser Ausdruck ist in der Depesche des Herrn v. Bismarck (vom 12. November d. J.) *) zunächst zwar nur gegen Württemberg und das Grossherzogthum Hessen wiederholt, er ist jedoch in der Wesenheit gleichmässig gegen die Königlich Bayerische Regierung gerichtet, da diese den Handelsvertrag mit Frankreich in gleicher Weise beurtheilt und abgelehnt hat, wie die vorgenannten beiden Regierungen und mit denselben hierin auch jetzt noch vollkommen übereinstimmt. Nicht minder ist dieser Ausspruch gegen alle diejenigen Regierungen gerichtet, welche dem besagten Handelsvertrag in seiner dermaligen Gestalt nicht unbedingt beistimmen zu können glauben, und er bildet seiner Form nach eine, gegen die freie Entschliessung dieser Regierungen gerichtete und den Principien des Zollvereins widerstrebende Drohung. Deshalb hielt die Bayerische Regierung sich für ebenso berechtigt, wie verpflichtet, — schon früher auszusprechen, dass sie eine solche Folgerung aus der ihrerseits erfolgten Ablehnung des Französischen Vertrages nicht anzuerkennen vermöge, und glaubt diese Verwahrung hier wiederholen zu sollen. Wenn die Königlich Preussische Regierung die Weigerung Bayerns und der übrigen Regierungen, den fraglichen Verträgen beizustimmen, als das auffasst, was sie wirklich ist, nämlich, als die Geltendmachung eines unzweifelhaften, durch die Vereinsverträge garantirten Rechts, so wird sie sich durch dieselbe weder verletzt, noch weniger aber zu dem Bestreben hingeleitet finden, der Ueberzeugung ihrer Mitverbündeten durch den oben gedachten folgenschweren Ausspruch Zwang anthun zu wollen. ¶ In dieser Voraussetzung hat die Bayerische Regierung geglaubt, dass es allen Vereins-Regierungen nur erwünscht sein könne, die wichtige Frage über die zweckmässige Entwickelung und Ausbildung des Handels- und Zollsystems des Vereins, welche der Artikel 34 des Vertrages vom 4. April 1853 ausdrücklich der Thätigkeit der regelmässigen General-Conferenz überweist, bei der bevorstehenden Conferenz in den Kreis der Berathung zu ziehen. Aus diesem Grunde hat sie bei der Einladung zu dieser Conferenz die Oesterreichischen Vorschläge als Berathungs-Gegenstand namentlich in Vorschlag gebracht und sie wird diesen Antrag auch fernerhin aufrecht erhalten. Sie erachtet es hierbei als vertragsmässige Pflicht aller Vereins-Regierungen, sich einer gemeinsamen Erörterung solcher wichtigen Fragen, welche die Vereinsinteressen so wesentlich berühren, nicht zu entziehen, und ist ihrerseits ebenso bereit, auf analoge Fragen, wie allenfalls auf Tarif-Modificationen, auf eine Erneuerung der Vereinsverträge sowie eventuell auf eine Wiederaufnahme der Verhandlungen mit Frankreich, einzugehen." ¶ Zum Schluss wird das Einverständniss zwischen den Regierungen von Bayern, Württemberg und Hessen-Darmstadt, welches auf vorangegangener gemeinsamer Berathung beruhe, nochmals betont. ¶ Diese Depesche bewies zweierlei; erstens, dass ohne Kündigung der Zollvereinsverträge — welche auf ebenso unzweifelhaftem Recht beruhte, wie der Widerspruch Bayerns — die Durchführung des Vertrages mit Frankreich nicht zu erreichen war, und zweitens, dass die Kündigung das Mittel war, welches unzweifelhaft zum Ziele führte. ¶ Inzwischen

*) No. 459 (an Württemberg), No. 462 (an Grossh. Hessen: d. d. 18. Nov.).

hatten sich nicht nur die Landesvertretungen in der grossen Mehrzahl der Zollvereinsstaaten, zum Theil in scharfem Widerspruch mit den respectiven Regierungen, zu Gunsten des Handelsvertrages mit Frankreich ausgesprochen, auch in der Bevölkerung, und namentlich in den handel- und gewerbetreibenden Klassen, wurde die Agitation zu Gunsten desselben immer lebhafter und umfangreicher. Auf dem, zum October 1862 nach München berufenen zweiten Deutschen Handelstage hoffte die Gegenpartei einen Sieg zu erringen, jedoch schlug derselbe in eine Niederlage um, indem nach einer heissen Debatte eine Resolution angenommen wurde, welche zwar die Beseitigung einzelner Beschwerdepunkte in dem Vertrage vom 2. August durch Verhandlungen der vertragschliessenden Regierungen für höchst wünschenswerth erklärte, aber hinzufügte, das schleunige Zustandekommen des Vertrages dürfe nicht in Frage gestellt werden. Die Annahme dieser Resolution erfolgte freilich nur mit schwacher Majorität, jedoch fanden sich in der Minorität die zahlreichen Oesterreichischen Stimmen, so dass, wenn man nur die Stimmen aus dem Zollverein in Betracht zog, die Majorität eine sehr bedeutende war. Von diesem Augenblicke war der Sieg des Handelsvertrages und seiner Politik in der öffentlichen Meinung Deutschlands vollkommen entschieden, und die dissentirenden Regierungen sahen sich im eigenen Lande durch die Vertreter der Handels- und Fabrik-Interessen, sowie durch die gegen die Wiedererrichtung der Zollschranken in der Mitte Deutschlands gerichtete allgemeine Volksstimmung mehr und mehr bedrängt. Es soll nicht geleugnet werden, dass in den weinproducirenden Ländern die in Aussicht gestellte Aufhebung der Uebergangs-Abgabe für Wein und Most wesentlich mitgewirkt habe. ¶ Die Agitation in den betreffenden Staaten wuchs um so mehr, je mehr man sich überzeugte, dass es Preussen mit der Durchführung seiner Handelspolitik vollkommener Ernst sei, und selbst die dissentirenden Regierungen würden ihren Widerstand nicht so lange fortgesetzt haben, wenn sie nicht auf einen wiederkehrenden Wankelmuth Preussens gerechnet hätten. Schon in der Münchener Depesche vom 31. December 1862 traten die schutzzöllnerischen Bedenken gegen den Vertrag in den Hintergrund, und die eigentliche Basis der Opposition wurde in dem Vertrags-Verhältnisse zu Oesterreich gesucht, wie denn auch die Regierungen der Opposition mit Oesterreich so sehr im Einvernehmen waren, dass später ein Bevollmächtigter Oesterreichs während ihrer Separat-Conferenzen in München anwesend war. Auch für das gegen den Vertrag gerichtete Votum der Bayerischen II. Kammer bildeten die angeblichen „Rechte“ Oesterreichs die Hauptgrundlage. Diese Basis des Widerstandes hatte freilich Preussen durch Abschluss des Vertrags vom 19. Februar 1853 selbst geschaffen. Indem die Einleitung diesen Vertrag als einen zur „Anbahnung der Allgemeinen Deutschen Zollvereinigung“ geschlossenen charakterisirt, und indem der Artikel 25 stipulirte, dass im Jahre 1860 Commissaire zusammentreten sollen, um über die Zolleinigung zwischen den beiden contrahirenden Theilen oder über weitergehende Verkehrserleichterungen und möglichste Annäherung und Gleichstellung der beiderseitigen Tarife zu unterhandeln, war für Oesterreich ein willkommener Anhaltspunkt gewonnen, um sich in die inneren Angelegenheiten des Zollvereins zu mischen, und für die dem Handelsvertrage widerstrebenden Regierungen

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im Zollvereine ein sogenannter Rechtsboden, auf den sie sich zurückzogen, als die Stütze, welche ihr Widerstand Anfangs in den Schutzzoll-Interessenten fand, gebrochen war. Die Zolleinigungsklausel allein war es, auf welche gestützt der Widerstand gegen die von der öffentlichen Meinung und den Interessenten als nothwendig und heilsam anerkannte Massregel des mit einer durchgreifenden Tarifreform verbundenen Eintritts in das System der Westeuropäischen Verträge, noch zwei Jahre lang, im Widerspruch grösstentheils mit der eigenen Bevölkerung der widerstrebenden Staaten, fortgeführt werden konnte. Als es sich im Jahre 1853 im Abgeordnetenhause um die Genehmigung jenes Vertrages vom 19. Februar 1853 handelte, wurde der Eingang so gut wie der Art. 25 von den meisten Rednern als eine zu nichts verpflichtende Phrase angesehen und bezeichnet, und nur einer der Redner sprach die bestimmte Befürchtung aus, dass diese Phrase eine Macht werden könnte. Sie ist es geworden, und hat den Interessen des Verkehrs und der Production dadurch, dass sie die Basis für den zweijährigen Widerstand gegen die nothwendige Reform bildete, unersetzlichen Schaden zugefügt. ¶ Die Eröffnung der 15. General-Conferenz des Zollvereins verzögerte sich bis in den März 1863. Sachsen hatte sich vergebens bemüht, die Bayerische Regierung von dem Vorhaben, die Oesterreichischen Propositionen zur Berathung zu stellen, abzubringen, jedoch erschienen dieselben in dem kurz vor der Eröffnung der Conferenz ausgegebenen Verzeichniss der von Bayern gestellten Anträge, ganz am Schluss einer Reihe vorwiegend geschäftlicher Punkte, und zwar auch hier ohne einen bestimmten Antrag, sondern nur als „fernerer Berathungsgegenstand“, über welchen „allenfallsige Anträge vorbehalten würden.“ ¶ Die Anträge gelangten von Seiten der Bayerischen Regierung in Gestalt einer vom 25. April 1863 datirten Denkschrift „die Propositionen der Kaiserlich Königlich Oesterreichischen Regierung vom 10. Juli 1862*) bezüglich der Erneuerung des Zoll- und Handelsvertrages vom 19. Februar 1853 und deren Berathung auf der 15. General-Conferenz betreffend,“ vor die Conferenz. Diese Denkschrift erörtert nicht den materiellen Inhalt der fraglichen Propositionen, sondern lediglich die Frage, ob sie auf der gegenwärtigen Conferenz zu berathen seien. Sie gelangte in dieser Beziehung zu folgenden Resultaten: Es handle sich gegenwärtig blos um die Beantwortung der Frage, welche erste und allgemeine Rückäusserung der Oesterreichischen Regierung auf ihre Propositionen und in welcher Form diese gegeben werden solle. Nach der oben erörterten Ansicht über die Verbindung dieser Frage mit jener der Erneuerung des Zollvereines wäre diese Erklärung, und zwar im Namen und im Auftrage der sämmtlichen Vereins-Regierungen durch diejenigen Regierungen, welche schon früher für die Verhandlungen mit Oesterreich ermächtigt waren, dahin abzugeben, dass der Verein geneigt sei, die Verhandlungen mit Oesterreich über die Fortsetzung und Erweiterung des Vertrages vom 19. Februar 1853 aus Anlass der neueren Propositionen wieder aufzunehmen und in nächster Zeit, und zwar gleichzeitig mit den Verhandlungen über die Erneuerung des Zollvereins“ zu eröffnen. ¶ „Wie bereits erwähnt“, heisst es weiter, „stehen beide Ver-

*) No. 430.

handlungen in einem inneren Zusammenhange; es erscheint jedoch keineswegs nothwendig, dass der Abschluss der einen der anderen vorausgehe, sondern wie bei den Verhandlungen vom Jahre 1852—1853 wird ein gleichzeitiger Abschluss wohl das Geeignetste sein. Die Erneuerung des Zollvereins aber kann, bei der allseitig vorwaltenden Disposition hierfür und bei der Erkenntniss seiner Wichtigkeit, wohl von dem Momente an als gesichert betrachtet werden, wenn sämmtliche Vereins-Regierungen darin übereinstimmen, dass sie die Zollvereins-Erneuerung an und für sich für das höchste gemeinsame Interesse erachten. ¶ „Sollte es gleichwohl nicht gelingen, hierüber, oder über die an Oesterreich zu ertheilende vorläufige Antwort eine Uebereinstimmung zu erzielen, so würde nur erübrigen, dass wenigstens diejenigen Regierungen, welche bezüglich der Erneuerung des Zollvereins-Vertrages und der weiteren Verhandlungen mit Oesterreich im Wesentlichen übereinstimmen, sich bezüglich ihres weiteren gemeinschaftlichen Verfahrens in beiden Richtungen unter sich verständigen." ¶ So versuchte Bayern für die Oesterreichischen Propositionen die Priorität vor dem Vertrage mit Frankreich zu gewinnen, und den Abschluss mit Oesterreich gewissermassen zur Bedingung der Erneuerung der Zollvereins-Verträge zu machen, die Durchführung der Verträge vom 2. August wurde in der Denkschrift nicht nur deutlich als „Sonderabsicht" und „Sonderinteresse" bezeichnet und direct ausgesprochen, dass, „wenn einzelne Mitglieder, indem sie einerseits die Erneuerung des Zollvereins als einen Präjudicialpunkt für die Inbetrachtnahme der Oesterreichischen Propositionen ansehen zu müssen glaubten, andererseits die Absicht hegen sollten, die Erneuerung der Zollvereins-Verträge davon abhängig zu machen, dass einzelne den Interessen anderer Vereins-Regierungen widersprechende Massregeln oder Modificationen der Vereins-Verträge allgemein anerkannt werden, und wenn dieselben gesonnen wären, lieber aus dem Vereine zu scheiden, als auf ihre Absichten zu verzichten:" — „unzweifelhaft die Erneuerung des bisherigen Zollvereins nicht allein in Frage gestellt, sondern vielmehr sofort als unerreichbar zu betrachten wäre". — Preussen blieb indess in der Erklärung, die es auf diese Denkschrift abgab, dabei stehen, „dass die Sicherung des Zollvereins als die Voraussetzung für die Verhandlungen mit Oesterreich anzusehen sei, da es, so lange noch Zweifel darüber beständen, ob und in welchem Umfange das Fortbestehen des Zollvereins über das Jahr 1865 hinaus gesichert sei, an der nothwendigen Grundlage für eine gedeihliche Berathung mit der Kaiserlich Königlich Oesterreichischen Regierung fehle; die Preussische Regierung glaube nicht erst von Neuem versichern zu sollen, dass sie von dem Wunsche geleitet werde, den Zollverein mit den ihr verbündeten Staaten fortzusetzen, die Fortsetzung des Vereins, unter Aufrechterhaltung des mit Frankreich geschlossenen Vertrages und die Regelung der Verhältnisse des in seinem Fortbestande gesicherten Zollvereins zu dem Oesterreichischen Kaiserstaate sei und bleibe das Ziel ihrer Bestrebungen. Sie werde die Einleitung zu den Berathungen wegen Fortsetzung des Zollvereins alsbald nach dem Schlusse der gegenwärtigen Conferenz treffen, und in demselben Augenblicke, in welchem der künftige Bestand des Zollvereins als gesichert anzusehen sei, sich den Verhandlungen mit der Kaiserlich Königlich Oesterreichischen Regierung zuwenden und

No. 1981. Preussen, 24. März 1865.

ihrerseits nichts unterlassen, um die gegenseitigen Beziehungen zwischen dem Verein und Oesterreich über das Jahr 1865 hinaus den beiderseitigen Interessen entsprechend zu regeln. Nachdem auch von Seiten der übrigen Zollvereins-Regierungen die Erklärungen erfolgt waren, wobei Sachsen sich bestimmt dahin aussprach, dass es in solchen Separatverhandlungen, wie sie am Schlusse der Bayrischen Denkschrift angedeutet seien, nicht Theil nehmen werde, gab Bayern in der Sitzung vom 13. Juni ein Résumé der eingegangenen Gegenäusserungen und bemerkte, auf die Preussische Erklärung näher eingehend, dass sie den Worten „unter Aufrechterhaltung des mit Frankreich geschlossenen Vertrages" nur den Sinn beilegen könne, dass die Königlich Preussische Regierung den Principien und Anschauungen, welche sie bei den Verhandlungen mit Frankreich und dem vorläufigen Vertragsabschlusse geleitet, auch fernerhin Geltung zu verschaffen bestrebt sein werde, nicht aber die Annahme des Vertrages selbst wiederholt als Bedingung aufzustellen gemeint sei." Und wenn diese Voraussetzung begründet, so erscheine eine Verhandlung über Erneuerung des Zollvereins jetzt als möglich und Erfolg versprechend. Schliesslich wurde der Preussische Bevollmächtigte aufgefordert, sich durch Einholung erneuter Instruction zu bestimmteren Erklärungen auf die von Bayern angeregten Fragen in den Stand zu setzen. ¶ Schon am 18. desselben Monats, also noch ehe eine Preussische Rückäusserung erfolgt sein konnte, lud die Bayerische Regierung durch eine Circulardepesche *) die zu ihr in näherer Beziehung stehenden Regierungen zu einer Conferenz nach München ein, um die am Schluss der Denkschrift vom 25. April in Aussicht genommenen Sonderberathungen vorzunehmen. Der Depesche lagen folgende Punctationen zu einer vorläufigen Vereinbarung über die Zollvereinsverträge bei: 1) Die contrahirenden Regierungen erklären hiermit ihre Berereitwilligkeit, den bestehenden Deutschen Zollverein, und zwar im Wesentlichen auf der durch die Verträge vom 4. April 1853 festgesetzten Grundlage fortzusetzen und diesem Ende demnächst Verhandlungen zu eröffnen und einen Vertrag abzuschliessen. 2) Im Falle nicht alle, den gegenwärtigen Zollverein bildenden Staaten geneigt sein sollten, einer Fortsetzung des Vereins auf der angegebenen Grundlage beizutreten, werden die jetzt contrahirenden Staaten wenigstens ihrerseits die Continuität des Vereins wahren und zu diesem Ende einen Erneuerungs Vertrag schliessen, den vorläufig nicht beitretenden Staaten aber den späteren Beitritt ausdrücklich vorbehalten. 3) Sollte es von Seiten der den Zollverein fortsetzenden Regierungen für angemessen erachtet werden, den Verein selbst in zwei Gruppen zu theilen, so soll jede dieser Gruppen als ein integrirender Theil des Zollvereins betrachtet werden und zwischen denselben vollkommene Verkehrsfreiheit für alle inländischen Landes- und Industrieproducte, sowie, so weit möglich, vollkommene Gleichheit aller inneren Einrichtungen bestehen. Die vollständige Vereinigung soll sofort wieder eintreten, sobald die entgegenstehenden Hindernisse beseitigt sind. 4) Die contrahirenden Regierungen erklären in gleicher Weise ihre Bereitwilligkeit, den unterm 19. Februar 1853 mit Oesterreich abgeschlossenen

*) No. 1990.

No. 1981 Preussen, 21. März 1865

Vertrag zu erneuern und in Gemässheit des Art. 25 desselben zu erweitern. 5) Zu diesem Ende wollen dieselben mit der Kaiserlich Königlich Oesterreichischen Regierung aus Anlass der Proposition derselben vom 10. Juli v. J. in Verhandlung treten und werden sofort nach Abschluss des gegenwärtigen Vertrages aus ihrer Mitte eine oder mehrere Regierungen bevollmächtigen, welche die Verhandlungen mit Oesterreich führen sollen. 6) Die contrahirenden Regierungen erklären sich ferner bereit, eine angemessene Reform des gegenwärtigen Vereinstarifs im Sinne der Erleichterungen mit Rücksicht auf die Verhältnisse zu Oesterreich entweder in nächster Zeit oder im Laufe der weiteren Verhandlungen eintreten zu lassen. 7) Dieselben verpflichten sich endlich gegenseitig, sowohl bei den erwähnten Verhandlungen mit Oesterreich als auch bei allen sonstigen Massregeln, welche eine wesentliche Abänderung der bisherigen Grundlagen und Bestimmungen des Zollvereins bezwecken, nur im gemeinschaftlichen Einverständnisse zu verfahren und zu diesem Ende einen fortwährenden directen Verkehr zu unterhalten. — ¶ Auf die Erklärung Bayerns vom 13. Juni antwortete die Preussische Regierung in der Sitzung der Conferenz vom 8. Juli, nachdem sie im Eingange einen articulirten Schriftwechsel als nicht geeignet bezeichnet hatte, eine Verständigung herbeizuführen, in Beziehung auf ihre Stellung zum Vertrage vom 2. August, wie folgt: — „Nach der, sämmtlichen Vereins-Regierungen bekannten, Ueberzeugung Preussens hat sich der bestehende Vereins-Zolltarif überlebt. Nach vieljährigen, sämmtlichen Vereins-Regierungen vorliegenden Erfahrungen schliesst die Organisation des Zollvereins eine wahre Reform dieses Tarifs im Laufe der Vereinsperiode aus. Preussen würde daher, auch wenn es nicht in der Lage gewesen wäre, mit Frankreich in commerzielle Verhandlungen zu treten, die Vereins-Verträge nur unter Voraussetzung einer vorgängigen umfassenden Tarif-Reform haben erneuern können. Die Stellung, welche Preussen in diesem Falle einzunehmen gehabt hätte, ist durch den Vertrag mit Frankreich insofern verändert, als einerseits die Tarif-Reform eine völkerrechtlich festgestellte Grundlage erhalten hat, andrerseits die Durchführung derselben mit einer wesentlichen Erleichterung der vereinsländischen Ausfuhr unmittelbar verbunden ist. Seine Stellung ist aber insofern nicht verändert, als Preussen jetzt die Annahme des Vertrages mit Frankreich und des auf demselben beruhenden Tarifs durch die übrigen Vereins-Regierungen ebenso als Aufgabe der von ihm vorgeschlagenen Verhandlungen ansieht, als es im andern Falle die Annahme der von ihm für nothwendig erachteten Tarif-Reform als diese Aufgabe zu betrachten gehabt hätte.“ ¶ Gleichzeitig erliess der Minister der auswärtigen Angelegenheiten eine vom 8. Juli datirte Circular-Depesche*) an die sämmtlichen Zollvereins-Regierungen, in welcher es über die Bayerische Erklärung vom 13. Juni heisst: „Inhalt und Fassung derselben mussten uns die Frage nahe legen, ob die Königlich Bayerische Regierung in dem, in früheren wiederholten Erklärungen kundgegebenen Bestreben, eine allseitige Verständigung herbeizuführen, beharren wolle. Die von ihr, wenige Tage nach dieser Erklärung und bevor eine Antwort Preussens auf dieselbe auch nur möglich war, an mehrere Vereins-Re-

*) No. 1991.

No. 1984. Preussen, 24. März 1865.

gierungen gerichtete, inzwischen durch die Presse bekannt gewordene Mittheilung vom 18. v. Mts. war zu unserem Bedauern nicht geeignet, Momente für die Bejahung jener Frage darzubieten. Unter solchen Umständen würden wir über den Inhalt unserer Antwort auf die Bayerische Erklärung vom 13. Juni nicht im Zweifel gewesen sein, wenn wir uns bei den Verhandlungen der General-Conferenz lediglich den von der Königlich Bayerischen Regierung vertretenen Auffassungen gegenüber auszusprechen hätten. Der Königliche Bevollmächtigte würde alsdann angewiesen worden sein, in seiner Erwiderung darauf hinzuweisen, wie Bayern nach Inhalt der Erklärung vom 13. v. Mts. eine Verhandlung über die Erneuerung des Zollvereins sowohl, als über die Verhältnisse zu Oesterreich nur unter der Voraussetzung überhaupt als möglich betrachte, wenn Preussen die Aufrechthaltung des Vertrages mit Frankreich dahin auffasse, dass es zwar den dabei leitend gewesenen Principien und Anschauungen auch fernerhin Geltung zu verschaffen bestrebt sein werde, den Vertrag als solchen aber aufgebe. An diesen Hinweis würde der Königliche Bevollmächtigte lediglich die Erklärung anzuknüpfen gehabt haben, dass die fragliche Voraussetzung nicht zutreffe, und Preussen daher die von ihm in seiner Erklärung vom 5. Juni vorgeschlagenen Verhandlungen von Seiten der Königlich Bayerischen Regierung als abgelehnt betrachte. Wenn eine solche Entwickelung in der Absicht der Königlich Bayerischen Regierung liegt, so würden wir diese im gemeinsamen Interesse der Bevölkerung des vereinten Zollgebiets beklagen. Aber wie wir es für unsere eigene Pflicht halten, die Zollvereins-Verträge nur unter solchen Bedingungen zu erneuern, welche wir mit der Wohlfahrt Preussens verträglich finden, so achten wir auch die Freiheit der Entschliessung, mit welcher die Königlich Bayerische Regierung entscheiden wird, in wie weit die Interessen ihrer Unterthanen sich mit den Grundlagen, auf welchen wir unsererseits den Verein fortzusetzen vermögen, vereinbaren lassen. Das Bedürfniss, hierüber allseitig zur Klarheit zu gelangen, wird nach unseren Wahrnehmungen von sämmtlichen Zollverbündeten gleichmässig empfunden, und wir glauben die Sorgfalt, welche wir der Zukunft des Zollvereins widmen, nicht wirksamer bethätigen zu können, als durch die bereits in Aussicht gestellte Einladung zu Conferenzen, auf welchen jede Vereins-Regierung die Bedingungen wird formuliren können, unter welchen sie in die Erneuerung der Zollvereins-Verträge zu willigen bereit ist.“ ¶ In der Zollvereins-Conferenz fanden die Verhandlungen über die Denkschrift vom 25. April dadurch ihre Erledigung, dass Bayern schliesslich erklärte, dass es bei der Verschiedenheit der Erklärungen der Vereins-Regierungen von einer Fortsetzung der Verhandlungen auf der Conferenz absehe und sich seine weiteren Schritte vorbehalte. Es fanden darauf auch Sonderberathungen zwischen Bevollmächtigten mehrerer Regierungen in München statt, in welchen man sich über Punctationen im Sinne des Bayerischen Vorschlages, jedoch in nicht bindender Weise, vereinigte. Diese Punctationen enthielten in sich selbst den Beweis der Unausführbarkeit, waren daher nicht mehr geeignet, ernsthafte Besorgnisse einzuflössen. ¶ Als Preussischerseits die Einladung zu der Berliner Zollvereins-Conferenz ergangen war, fanden sich im October 1863 die Bevollmächtigten der Regierungen

von Bayern, Württemberg, Kurhessen, Grossherzogthum Hessen, Hannover, Nassau und der freien Stadt Frankfurt von Neuem in München zusammen, um sich über ein gemeinschaftliches Verhalten auf der bevorstehenden Berliner Conferenz zu vereinigen. Es wurde darüber unter dem 12. October eine Registratur aufgenommen, welche zunächst den Satz an die Spitze stellte, dass die Erhaltung des Zollvereins das unverrückbare Ziel der betheiligten Regierungen sei, und sodann bestimmte, dass dem Preussischen Antrage auf Zustimmung zu dem Französischen Vertrage der Antrag auf sofortige Eröffnung von Verhandlungen mit Oesterreich auf Grundlage der Propositionen vom 10. Juli 1862 entgegenzustellen, und mit aller Bestimmtheit und Consequenz zu vertreten, für den Fall weiterer Verhandlungen mit Frankreich aber daran festzuhalten sei, dass besondere Verkehrserleichterungen mit Oesterreich und den übrigen, dem Zollverein nicht beigetretenen Deutschen Staaten vereinbart werden dürften, ohne dass dieselben sofort auch auf Frankreich zur Anwendung kommen. Für den freilich mit Bestimmtheit vorauszusehenden Fall, dass der oben erwähnte Antrag von Seiten anderer Vereinsstaaten einen entschiedenen Widerspruch finden sollte, war den betheiligten Regierungen zwar die Entschliessung über ihre weitere Action vorbehalten, aber zugleich die „Hoffnung“ ausgesprochen, dass dieselben alsdann eine anderweite Berathung, behufs thunlichster Verständigung über ferneres gemeinsames Vorgehen, eintreten lassen wollen. ¶ In dieser „Registratur“ war der Standpunkt der Punctationen durchaus verlassen. Von Sprengung des Zollvereins war so wenig mehr die Rede, dass die an die Spitze gestellte, auf die Beruhigung der eigenen Bevölkerung berechnete Erklärung so aufgefasst werden konnte, als sollte der Zollverein unter allen Umständen erneuert werden. Der Gegenantrag war eine Erneuerung des Schachzuges von der Münchener Conferenz, aber es war schon nicht mehr möglich gewesen, im Falle dieser Antrag abgelehnt würde, eine Verpflichtung zu weiterem Zusammenwirken festzustellen. An die Stelle einer Verpflichtung trat eine „Hoffnung“. ¶ Indess, so schwach die Grundlage der Opposition auch geworden war, sie hat ausgereicht, um die Annahme des Französischen Handelsvertrages und das Zustandekommen der Verträge über Erneuerung des Zollvereins noch ein ganzes Jahr zu verzögern. ¶ Die Einladung zu der in Berlin abzuhaltenden Generalconferenz der Zollvereinsstaaten behufs Erneuerung der Zollvereinsverträge erfolgte Preussischerseits am 3. August 1863. Die Eröffnung fand am 5. November 1863 statt. Die Anträge, welche Preussen stellte, bezogen sich auf Annahme der Verträge vom 2. August, Umgestaltung des Tarifs und Aenderung der Bestimmungen über das Präcipuum der Staaten des früheren Steuervereins. In der ersten Sitzung der Conferenz am 5. November wurde der in München verabredete Antrag auf sofortigen Beginn der Verhandlungen mit Oesterreich auf Grund der Vorschläge vom 10. Juli 1862 übergeben und in derselben Sitzung auch von Preussen in Bezugnahme darauf, dass es, so lange der Fortbestand des Zollvereins nicht gesichert und über den künftigen Tarif desselben nicht ein Einverständniss erzielt sei, an der subjectiven wie objectiven Grundlage zu Verhandlungen mit Oesterreich fehle, abgelehnt. ¶ Baden stellte nun den vermittelnden Antrag, unter Aussetzung aller principiellen Differenzen eine specielle

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Berathung des von Preussen vorgelegten Entwurfs zu einem neuen Vereinstarif vorzunehmen. Die Bevollmächtigten von Bayern, Württemberg, Nassau und dem Grossherzogthum Hessen gingen auf diese Berathung „unter principieller Wahrung ihres Standpunktes und unpräjudizirlich“ ein. Dieser Tarif war aber nichts Anderes, als die Verallgemeinerung des Tarifs *B.* zum Handelsvertrage mit Frankreich. ¶ Bei der Berathung des Tarifs zeigte sich, dass zwar gegen einzelne Punkte des Entwurfs mancherlei Einwendungen von einzelnen Regierungen erhoben wurden, bei keiner derselben aber ein tiefer gehendes und principielles Bedenken gegen die Annahme vorhanden war. ¶ Die Sächsische Regierung stellte nunmehr den Antrag: 1) dass diejenigen Zollvereins-Regierungen, welche dem Französischen Vertrage bis jetzt noch nicht beigetreten seien, die Bestimmungen, welche sie daran hindern, speciell bezeichnen möchten; 2) dass die Regierungen von Preussen, Bayern und Sachsen beauftragt werden möchten, die Verhandlungen mit Oesterreich auf Grund des Vertrages vom 19. Februar 1853 und mit Berücksichtigung der Oesterreichischen Vorschläge vom 10. Juli 1862 zu beginnen; 3) demnächst aber und vorbehaltlich der unter 1 und 2 beantragten Verhandlungen in eine specielle Behandlung des vorliegenden Tarif-Entwurfs einzutreten. ¶ Der Antrag 3 war inmittelst durch die Berathung des Tarifs erledigt; mit den Anträgen 1 und 2 erklärten sich am 27. November sämmtliche Vereinsstaaten einverstanden, und zwar Bayern, Hannover, Württemberg, beide Hessen und Nassau unter der Voraussetzung, dass die Anträge 1 und 2 als ein Ganzes aufzufassen seien. Vom 1. December 1863 ab ging die Conferenz in eine Prüfung des Französischen Handelsvertrages ein, und es stellte sich bei diesen Verhandlungen heraus, dass der Widerstand gegen den Handelsvertrag sich im Wesentlichen auf Art. 31 allein bezog. Es wurde in anderen Richtungen mancher Wunsch ausgesprochen, aber lediglich zu Art. 31 von Bayern unter Zustimmung von Hannover, Württemberg, beiden Hessen und Nassau die bestimmte Erklärung abgegeben, dass ohne Modification dieses Artikels der Handelsvertrag nicht angenommen werden könne. In Betreff der Verhandlungen mit Oesterreich wurde ein vollständiges Einverständniss nicht erzielt; denn während man mit der baldigen Einleitung solcher Verhandlungen allseitig einverstanden war, standen sich die Ansichten über die hierbei anzunehmenden Grundlagen direct entgegen. Indem der eine Theil als solche nur den Vertrag vom 19. Februar 1853 zuliess und die Vorschläge vom 10. Juli 1862 von vorn herein als unannehmbar bezeichnete, beharrte der andere Theil darauf, dass eben diese Vorschläge zur Grundlage der Verhandlungen genommen werden sollten. In der letzten Sitzung der Conferenz vor Weihnachten 1863 stellte Preussen noch in einer besonderen Schluss-Erklärung die ausdrückliche Frage, ob eine zustimmende Erklärung zu dem Tarif-Entwurf auch unter der Voraussetzung gegeben werde, dass dabei eine befriedigende Regelung der Handelsverhältnisse zu Frankreich beabsichtigt werde (bisher war nämlich der Tarif-Entwurf lediglich als ein von Preussen vorgeschlagener angesehen und behandelt, und es war ganz davon abgesehen worden, dass es materiell denselben mit Frankreich vereinbart habe), und auch die übrigen Bedenken gegen den Handelsvertrag durch die im Laufe der Verhandlungen gegebenen Erläuterungen als erledigt anzusehen

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seien. Für den Fall einer bejahenden Antwort erklärte Preussen den Zeitpunkt für Verhandlungen mit Frankreich und Oesterreich für eingetreten und machte zugleich Vorschläge über die Punkte, auf welche die Verhandlungen mit Oesterreich zunächst zu richten sein möchten. Die Erklärungen auf diese Fragen wurden für den Wiederzusammentritt der Conferenzen zugesagt.

Es erfolgte nun von Preussischer Seite die Kündigung der Zollvereinsverträge.

Der Wiederbeginn der Verhandlungen wurde auf Wunsch des Bayerischen Commissars bis zum 3. Februar aufgehoben und am 5. übergab Bayern eine Erklärung, in welcher vor Beantwortung der oben erwähnten Preussischen Anfrage die Gegenfrage an Preussen gerichtet wurde, ob es nicht geneigt sei, sofort auf Verhandlungen mit Oesterreich auf Grund des Februar-Vertrages und der Vorschläge vom 10. Juli 1862 einzugehen, da von dem Ergebniss dieser Verhandlungen die Beantwortung der Preussischen Frage abhängig sei. Als Preussen diese Frage verneinte, gab Bayern eine fernere Erklärung ab, welche im Wesentlichen dahin ging, — dass es die Frage wegen definitiver Genehmigung des Tarifs mit Frankreich nicht eher beantworten könne, als bis die Resultate der Verhandlungen mit Oesterreich festgestellt seien, dass es aber bereit sei, den Tarif mit Preussen festzusetzen als Grundlage der Verhandlungen mit Oesterreich. — ¶ Auf diese Verhandlungen über den Tarif ging man ein, und am 1. März begann die zweite Berathung des Preussischen Tarif-Entwurfs, und es wurde in einer Reihe von Sitzungen, sowohl dieser, als auch der Französische Handelsvertrag und der Schifffahrtsvertrag zum zweiten Male durchberathen. ¶ Bei Berathung der Literar-Convention erklärten die Commissare von Württemberg und Grossherzogthum Hessen, dass ihre Regierungen nicht in der Lage seien, sich über diese Convention zu erklären, da sie erst die Resultate der Berathungen am Bundestage über ein allgemeines Deutsches Nachdrucksgesetz abwarten wollten. ¶ Diese Erklärung wurde indess schon am 22. März zurückgenommen und die Berathung der Literar-Convention beendigt, so dass am 24. März die Erklärung von Seiten der Königlichen Staatsregierung abgegeben werden konnte. — — ¶ Nach Abschluss der Verträge vom 28. Juni und 11. Juli konnte über den schliesslichen Beitritt der vier übrigen Staaten (Bayern, Württemberg, Hessen-Darmstadt und Nassau) kein Zweifel mehr bestehen. Die Verträge halten diesen Staaten den Beitritt offen (Art. 8 des Vertrages vom 28. Juni 1864). Bestandtheil der neuen Verträge bildete das mit Baden getroffene Abkommen wegen Herabsetzung der Rheinzölle, dem Hessen-Darmstadt und Nassau nunmehr beitreten mussten, falls sie überhaupt Mitglieder des neuen Zollvereins werden wollten. Ueber die Offenhaltung des Beitritts bestimmten die Verträge jedoch, dass, sofern nicht bis zum 1. October der Beitritt aller dieser Regierungen erfolgt sei, die contrahirenden Staaten ungesäumt über die alsdann erforderlichen Aenderungen in der Zoll-Organisation und Einrichtungen für den Grenzschutz in Verhandlung treten würden. Im Schlussprotokolle wurden zugleich die Grundsätze in Beziehung auf die Einrichtungen zum Schutze der Grenzen gegen die gegenwärtig dem Zollverein angehörigen Staaten in zweckmässiger Weise vereinbart. Es wurde ferner im Separat-Artikel 5 zu dem Vertrage vom 28. Juni von Seiten

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Preussens, Nassaus, Kurhessens, Braunschweigs und des Thüringischen Zoll- und Handelsvereins (Hannover und Oldenburg traten dem bei) ausgesprochen, dass von dem Zeitpunkte ab, an welchem der neue Zolltarif in Wirksamkeit trete, von dem in Baden und dem Frankfurter Gebiet erzeugten Wein und Traubenmost eine Uebergangsabgabe nicht ferner erhoben werden solle. Im Schlussprotokoll Nr. 2 wurde verabredet, dass diese Befreiung von der Wein-Uebergangsabgabe auf die gleichen Erzeugnisse eines jeden gegenwärtig dem Zollverein angehörigen Staates ausgedehnt werden solle, welcher dem Vertrage vom 28. Juni v. J. bis zum 1. October beitrete. Bei späterem Beitritt blieb die Befreiung (nach Sep.-Art. 5) der besonderen Verständigung vorbehalten, die also durch den Widerspruch Eines der contrahirenden Staaten gehindert werden konnte. ¶ Es waren hiermit den noch widerstrebenden Staaten entscheidende Motive zum Beitritt vor dem 1. October gegeben. Dieselben conferirten noch einmal in München und vereinigten sich dort zu Punctationen über das künftige Verhältniss zu Oesterreich, die indess der Oesterreichischen Regierung zur weiteren Verfolgung übergeben wurden. In den letzten Tagen des September zeigten die sämmtlichen vier Regierungen der Reihe nach ihren Beitritt zu den Verträgen vom 28. Juni und 11. Juli an, und noch vor dem 1. October konnten die Verhandlungen unter sämmtlichen Zollvereinsregierungen in Berlin wieder eröffnet werden, und führten dieselben am 12. October v. J. zu dem Abschlusse des Vertrages über den Beitritt Bayerns, Württembergs, Nassaus und des Grossherzogthums Hessen. ¶ Somit war der Zollverein auf Grund der Annahme des Deutsch-Französischen Handelsvertrages und des reformirten Tarifs auf fernere 12 Jahre erneuert, der volle Sieg, der durch den Vertrag vom 2. August 1862 inaugurirten Handelspolitik, der Eintritt des gesammten Zollvereins in das System der Westeuropäischen Verträge, vollendet. Die Verträge wurden abgeschlossen vor Beginn der Verhandlungen über das Handelsvertrags-Verhältniss zu Oesterreich und treten unabhängig von dem Ergebniss dieser Verhandlungen in Kraft. In Betreff der Verträge mit Frankreich verpflichtete sich Preussen, zuvor gewisse den Principien der Verträge nicht widersprechende Abänderungen und Ergänzungen derselben zum Gegenstande nachträglicher Verhandlung mit Frankreich zu machen, jedoch war der Beitritt des Zollvereins zu den Verträgen vom 2. August 1862 von dem Ergebniss dieser Verhandlung unabhängig. Gleichzeitig ist eine innere Verkehrsbeschränkung im Zollvereine, die Uebergangsabgabe, beseitigt und in dem Grundsatze der Vertheilung der Zollvereins-Einnahmen eine wesentliche Verbesserung erzielt. Ein Kampf, der 2½ Jahre die öffentliche Meinung beschäftigte, Diplomaten und Presse in Athem erhielt, war, nachdem seine letzten Phasen sich mit erstaunlicher Regelmässigkeit abgewickelt, glücklich zu Ende geführt. ¶ Die Ueberzeugung, von welcher die gesetzgebenden Factoren in Preussen bei der Annahme des Französischen Handelsvertrages und Feststellung und Bekräftigung einer energischen Politik zur Durchführung desselben ausgegangen waren, die Ueberzeugung, dass der Zollverein ein materielles Band des Deutschen Volkes bildet, gegen welches separatistische Coalitionen nichts auszurichten vermögen, dass die Majorität im Zollverein wenigstens ein Mittel hat, ihren Willen schliesslich

durchzusetzen; die Kündigung der Verträge gegenüber einer auf ihr vertragsmässiges Veto sich steifenden Minorität hat sich durch die Erfahrung erhärtet. Die Regierungen der Minorität werden erkannt haben, dass jedes Glied im Zollverein am besten thut, sich von dem Bewusstsein der Zusammengehörigkeit des Zollvereins tragen zu lassen, und die Motive für seine Beschlüsse über die dem Zollverein nothwendigen Reformen lediglich aus den gemeinsamen Interessen der Zollvereins-Bevölkerung zu nehmen. Ebenso wissen aber auch wir in Preussen, dass Preussen nur gesiegt hat, weil es sich auf die Nothwendigkeit der Entwickelung des Zollvereins zur freihändlerischen Tarifreform, auf die Nothwendigkeit seines Eintritts in die westeuropäischen Handelsverträge und auf die bei der übergrossen Mehrheit der Zollvereins-Bevölkerung herrschende Ueberzeugung von dieser Nothwendigkeit stützte. Ebenso wenig wie die Regierungen der Minorität sich mit Erfolg der Reformpolitik widersetzen konnten, ebenso wenig würde Preussen seinen Willen durchgesetzt haben, wenn es etwa eine der nothwendigen Reformpolitik widerstrebende Politik des Zollschutzes und der internationalen Abschliessung hätte erzwingen wollen. In diesem Verhältniss liegt die Harmonie zwischen der Selbstständigkeit der dem Zollverein angehörigen Staaten und der Entwickelungsfähigkeit der Gesetzgebung des Zollvereins; denn sich dem Drängen der öffentlichen Meinung und den Geboten der Culturentwickelung fügen, ist kein Verlust an persönlicher Willensfreiheit oder staatlicher Autonomie. Die Königliche Staatsregierung aber möge nicht vergessen, dass sie in diesem Kampfe nur deshalb die nöthige Energie gefunden hatte, weil sie sich in dieser Frage eins wusste mit der Landesvertretung, dass sie in demselben nur siegte, weil sie sich auf die aufgeklärte Ueberzeugung des Preussischen und Deutschen Volkes und die enge Allianz mit der öffentlichen Meinung stützte.

Nachdem die unterzeichneten Commissionen sich dieses Bild der schwierigen und langwierigen Verhandlungen, deren Führung ebensoviel Festigkeit, Geduld und ausdauernde Mühewaltung auf der einen Seite, wie Geschicklichkeit und scharfe Wachsamkeit auf der andern Seite erforderte, wieder vorgeführt, konnten sie nicht umhin, den hohen Verdiensten der in ihrer Mitte anwesenden Vertreter der Staatsregierung, welche diese Verhandlungen zu dem beabsichtigten Ziele geführt, ihre volle Anerkennung zu zollen. ¶ Die Commissionen unterwarfen die Vorlagen zunächst einer

Allgemeinen Debatte. —

In derselben wurde vor Allem zur Sprache gebracht, dass zu den unverändert erneuerten Bestimmungen der älteren Zollvereins-Verträge auch der Art. 6 des Vertrages vom 4. April 1853 gehöre, wonach — „Veränderungen in der Zollgesetzgebung mit Einschluss des Zolltarifs und der Zollordnung, sowie Zusätze und Ausnahmen nur auf demselben Wege und mit gleicher Uebereinstimmung sämmtlicher Glieder des Gesammtvereins bewirkt werden können, wie die Einführung der Gesetze erfolgt." — ¶ Indem der vorliegende Vertrag, wie der frühere, auf 12 Jahre abgeschlossen wird, verzichtet Preussen für diese Periode auf seine Autonomie in der Zollgesetzgebung in der Weise, dass zu jeder Tarifänderung die Zustimmung jedes

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Zollvereinsstaates nothwendig ist. Es wurde gefragt, ob nicht mit diesem liberum veto wieder auf eine zu lange Periode eine volle Unbeweglichkeit des Zollvereinstarifs herbeigeführt werde, die befürchten lasse, dass derselbe hinter dem Bedürfniss des Verkehrs und der mehr und mehr auf befreiten Austausch angewiesenen Production und hinter den Anforderungen der sich klärenden Ueberzeugung zurückbliebe, wie dies ja seit dem Abschluss von 1853 fort und fort Gegenstand vielfacher Klagen gewesen sei. Der durch den Vertrag vom 2. August 1862 herbeigeführte Fortschritt in der Reform des Zollvereinstarifs sei ja eben nur ein Schritt, dem noch andere weitere Schritte naturgemäss folgen müssten, um so mehr, als auch in den übrigen Ländern Europas die handelsfreiheitliche Fortentwickelung der Tarife eine beschleunigte sei. Es könne sich dieses Hemmniss der Zollgesetzgebung gerade jetzt um so empfindlicher geltend machen, als man die Rückwirkungen des neuen Tarifs erst in der praktischen Gestaltung der Verhältnisse werde vollständig übersehen können, und man darauf gefasst sein müsse, dass in manchen Fällen das Bedürfniss exportirender Industrien nach ferneren Tarifermässigungen sich so dringend geltend machen werde, dass eine durch das liberum veto etwa herbeigeführte Unmöglichkeit, denselben abzuhelfen, empfindliche Nachtheile herbeiführe. Eine Veränderung der Zollvereinsverfassung, welche Tarifänderungen durch Einführung eines irgendwie gestalteten Majoritätsprincips erleichtere, würde einzig im Stande sein, die Garantie eines den Zeitverhältnissen entsprechenden Fortschritts der Tarifgesetzgebung zu gewähren. ¶ Es wäre, so wurde hierauf erwidert, gewiss erfreulich gewesen, wenn eine solche Aenderung der Zollvereinsverfassung sich hätte erzielen lassen. Allein man möge nicht übersehen, dass eine solche Veränderung den Zollverein in seinem Wesen umwandeln, ihn aus einem Vertragsverhältniss zwischen souverainen Staaten, zu einem dem bundesstaatlichen Charakter sich annähernden Verbande machen würde. Solche Veränderung würde eine grosse politische Bedeutung haben. Aber eben weil sie diese habe, begegne sie denselben Schwierigkeiten, wie die sonstige Deutsche Verfassungsreform, und bei Gelegenheit dieser Erneuerung der Zollvereinsverträge seien die äusseren Verhältnisse wohl am wenigsten der Durchführung solcher Verfassungsreform günstig gewesen. Uebrigens gewähre die Schwierigkeit, welche sich Tarifänderungen entgegenstelle, auch eine gewisse Garantie gegen den Rückschritt in der Tarifgesetzgebung. Neben dem zeitgemässen Fortschritt sei auch eine gewisse Stetigkeit und Verlässlichkeit der Tarifgesetzgebung dringendes Bedürfniss für Production und Verkehr. Es sei ein hoher Gewinn, dass in dieser Zollvereinskrise klar gestellt sei, dass jedesmal beim Ablauf der Zollvereinsverträge Preussen die Möglichkeit habe, als natürlicher Vertreter des gemeinsamen Interesses der gesammten Zollvereinsbevölkerung die nothwendigen Reformen durchzusetzen. Diese Erkenntniss werde nicht nur beim Ablauf der jetzt zur Genehmigung vorliegenden Zollvereinsverträge ihre Früchte tragen, sondern auch inzwischen auf die Haltung der einzelnen Glieder des Zollvereins zurückwirken. Dieselben würden erkannt haben, dass der einzig zuträgliche Boden für ihre Stellung zu den Fragen der Zollvereinsgesetzgebung, nicht der gewisser bevorzugten Sonderinteressen, oder eines Particularismus sei, der sich im Interesse einer miss-

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verstandenen „Selbstständigkeit“ durch Negation dessen, was das Bedürfniss erfordere, geltend machen wolle, sondern der des allgemeinen Interesses der Zollvereins-Bevölkerung in Bezug auf ihre wirthschaftliche und Culturentwicklung. Sie würden sich zugleich der Erkenntniss nicht verschliessen, dass in der handelsfreiheitlichen Entwicklung eine Gefährdung ihrer Souveränetätsrechte nicht liege, dass im Gegentheil eine solche sich nur dadurch herausbilden könne, wenn etwa der leitende Staat durch Bevorzugung von Schutzzoll-Interessen wirthschaftlich einflussreiche Elemente in den Gebieten der übrigen Staaten des Zollvereins an sich zu ketten suche. Diese Gefahr liege aber gerade in ihrer Verbindung mit Preussen nicht vor, weil Preussen durch seine eigenen Interessen der handelsfreiheitlichen Entwickelung zugedrängt werde. ¶ Allerdings liege dringende Veranlassung vor, im Interesse einer selbstständig den eigenen Interessen entsprechenden Fortentwickelung der Tarifgesetzgebung des Zollvereins das Verhältniss zu Oesterreich ins Auge zu fassen. ¶ Es sei nämlich unverkennbar, dass die Opposition der widerstrebenden Zollvereins-Regierungen, welche durch die Verzögerung des Inkrafttretens der Verträge vom 2. August der Gewerbsamkeit und der wirthschaftlichen Entwickelung des Zollvereins so unersetzlichen Schaden zugefügt, ihren Boden wesentlich in dem Verhältniss zu Oesterreich gefunden habe. Die anfangs von schutzzöllnerischem Standpunkte erhobenen Einwendungen seien sehr bald widerlegt und von den betreffenden Regierungen selbst später nur in zweiter Linie und mit geringem Nachdruck geltend gemacht worden; dagegen sei das angebliche Recht Oesterreichs, welches aus den Bestimmungen des Vertrags von 1853 herfliessen solle, obgleich in den Vorverhandlungen von demselben nicht die Rede gewesen in den Vordergrund geschoben und habe die eigentliche Basis des Widerstandes bis zum Schluss gebildet. Es seien die Bestimmungen des Eingangs des Vertrages von 1853, und der bekannte Art. 25 desselben, die Grundlage dieser Ansprüche, welche von Oesterreich erhoben und von den süddeutschen Staaten unterstützt und dahin gegangen seien, dass vor Annahme des Vertrags mit Frankreich und vor Erneuerung des Zollvereinsvertrages die weitere Ausbildung der begünstigten Stellung Oesterreichs im Zollverein gefordert werden müsse. Auch von Oesterreichischer Seite sei die sogenannte Zolleinigungsklausel dahin aufgefasst, dass dieselbe für Oesterreich ein Recht begründe, in die inneren Verhältnisse des Zollvereins sich einzumischen und Verträge des Zollvereins mit anderen Staaten zu verhindern. Bereits in dem Berichte der vereinigten Commissionen für Finanzen und Zölle, und für Handel und Gewerbe vom 1. September 1862 sei nachgewiesen, dass die Zolleinigungsbestrebungen Oesterreichs lediglich politische Zwecke verfolgten und, weil sie Unterstützung von Seiten einzelner Zollvereinsstaaten fänden, das wesentlichste Hinderniss der Entwickelung der Zollvereins-Gesetzgebung nach den eigenen Bedürfnissen der Zollvereins-Bevölkerung böten. Es sei stets als die Aufgabe Preussens aufgefasst worden, sich bei dem gegenwärtigen Ablaufe der Zollvereins-Verträge von dieser Klausel gänzlich zu befreien, da einerseits eine Zolleinigung mit Oesterreich von Preussischer Seite nicht ernstlich ins Auge gefasst werden könne, andererseits aber jede auch noch so vage Bestimmung, welche in dieser Beziehung in einen

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neuen Vertrag mit Oesterreich aufgenommen werde, die Handhabe bilde, um im Interesse Oesterreichs auf die Entwickelung der Zollvereins-Gesetzgebung einzuwirken. Es sei die Aufgabe des Zollvereins und namentlich Preussens, Oesterreich in solche Stellung zum Zollverein zu bringen, wie sie jeder andere Staat einnehme, die nämlich, dass es gleich allen übrigen Staaten ein Interesse an jeder Tarif-Herabsetzung im Zollverein habe. So lange es seine Zolleinigungs-Politik verfolge, habe es ein Interesse, dass eine weitere Ermässigung des Zollvereins-Tarifs nicht eintrete, damit der Abstand zwischen dem Oesterreichischen und dem Zollvereins-Tarif nicht vergrössert werde. Es knüpfe dadurch die Zollschutz-Interessen im Zollvereine an sich und behalte immer Einfluss genug, um eine diesem seinem Interesse entgegenstehende Tarifreform zu verhindern. Preussen müsse also dieser Zolleinigungs-Politik Oesterreichs jede Basis entziehen. Es liege dieses nicht blos im Interesse des Zollvereins, es liege auch im Interesse Oesterreichs und eines guten Einvernehmens zwischen Oesterreich und dem Zollverein; denn der vielfache Hader innerhalb des Zollvereins und zwischen dem Zollvereine und Oesterreich sei lediglich durch diese unklaren Bestimmungen des Vertrages von 1853 herbeigeführt worden. Oesterreich selbst aber habe durch die eigene Tarifreform nicht nur grosse wirthschaftliche und finanzielle, sondern auch grosse politische Aufgaben durchzuführen und es würde sich nie in ein Vertragsverhältniss einlassen können, welches seine Tarifautonomie ernstlich gefährde. ¶ Durch eine liberale und den eigenen Interessen der Bevölkerung des Gesammtstaates entsprechende Tarifpolitik vermöge Oesterreich das Band zwischen den verschiedenen Nationalitäten, aus denen es sich zusammensetze, wieder fester zu knüpfen, welches durch die politischen Ereignisse der letzten Jahrzehnte so sehr gelockert sei. Für den Augenblick liege ein neuer Vertrag mit Oesterreich nicht vor; es sei indessen die Bestimmung der vorliegenden Verträge, welche sich auf das Vertragsverhältniss zu Oesterreich beziehen, ins Auge zu fassen und daraufhin zu prüfen, ob durch Genehmigung derselben das Abgeordnetenhaus sich irgendwie binde, einen Handelsvertrag mit Oesterreich zu genehmigen, der zugleich in irgend welcher Form wieder die Zolleinigungsklausel enthalte. Die fragliche Bestimmung finde sich bereits in dem, der Regierungsdenkschrift als Anlage beigefügten, durch den Vertrag vom 28. Juni v. J. erledigten Vertrage zwischen Preussen und Sachsen vom 11. Mai 1864. Der §. 5 desselben sei seinem Sinne nach unverändert in den Vertrag vom 28. Juni übergegangen und laute in dem letzteren (Artikel 7): „Da der zwischen Preussen und Oesterreich abgeschlossene Handels- und Zollvertrag vom 19. Februar 1853, welchem die übrigen contrahirenden Staaten zufolge des Artikel 41 des Vertrages vom 4. April 1853 beigetreten sind, mit dem 31. December 1865 abläuft, so betrachten es die contrahirenden Staaten als ihre gemeinschaftliche Aufgabe, das durch jenen Vertrag begründete Verhältniss in einer, ihren innigen Beziehungen zu Oesterreich und den Interessen ihres Verkehrs mit demselben entsprechenden Richtung auf dem Wege der Verhandlung mit Oesterreich zu erhalten und weiter auszubilden." — ¶ Es sei zunächst nach den Motiven zu fragen, welche diesem Artikel überhaupt in jenem Vertrage eine Stelle gegeben. Diese erklärten sich leicht dadurch, dass jener

Vertrag eine Erneuerung des Zollvereins-Vertrages vom 4. April 1853 enthalte und dass in dem Artikel 41 jenes älteren Vertrages eben der Beitritt der Zollvereinsstaaten zu dem Vertrage vom 19. Februar 1853 erwähnt sei. Es habe also in dem Vertrage vom 28. Juni eine Erwähnung dieses Verhältnisses nicht umgangen werden können. In den Worten des Artikel 7 sei allerdings ausgesprochen, dass das durch jenen Vertrag begründete Verhältniss zu Oesterreich zu erhalten und weiter auszubilden sei; jedoch sei dieser Erhaltung und weiteren Ausbildung eine bestimmte Beschränkung dadurch auferlegt, dass hinzugefügt sei: „in einer ihren innigen Beziehungen zu Oesterreich und den Interessen ihres Verkehrs mit demselben entsprechenden Richtung“, so dass also eine unbedingte und unveränderte Aufrechterhaltung der Grundlagen jenes Vertrages nicht ausgesprochen sei. Namentlich sei die Aufrechterhaltung ausschliesslicher Zollbegünstigungen durch den im Schlussprotokoll Nr. 10 ausgesprochenen unbedingten Beitritt der Zollvereinsstaaten zu dem Vertrage vom 2. August 1862, einschliesslich des Artikels 31 derselben, ausgeschlossen; denn der Artikel 31 verhindere eine ausschliessliche Zollbegünstigung Oesterreichs. Die Richtung, in welcher das Vertragsverhältniss mit Oesterreich zu erhalten und auszubilden sei, sei in so allgemeinen Ausdrücken bezeichnet, dass offenbar daraus hervorgehe, dass die contrahirenden Staaten sich in keiner bestimmten Weise binden wollten. Der Hinweis auf die Verkehrs-Interessen begründe eben nur einen Handelsvertrag in dieser specifischen Bedeutung. Der Hinweis auf die sonstigen innigen Beziehungen sei unter den damaligen Verhältnissen, wo Preussen und Oesterreich als Alliirte in dem Schleswig-Holsteinischen Kriege auftraten, sehr erklärlich, begründe eine besondere Neigung zu den durch das gegenseitige Interesse bedingten Verkehrs-Erleichterungen, höchstens auch eine Ausdehnung der Verhandlungen, von denen der Artikel spreche, auf die gegenseitige Unterstützung in der Bewahrung der gemeinschaftlichen Grenzen, welche eben ausserhalb der Natur eines Handelsvertrages liege und nur einer engbefreundeten Macht gewährt werden könne. Eine Zusage der Erneuerung der Zoll-Einigungsklausel in irgend welcher Form sei in diesem Artikel durchaus nicht enthalten. ¶ In der That sei dies Eingehen in so unklare und beiderseits hemmende Verpflichtungen, dies Eingehen auf Vertragsbestimmungen, welche die Basis einer die Selbstentwickelung des Zollvereins gefährdenden Agitation bildeten, ein Mittel, nicht die intimen Beziehungen, von denen Art. 7 spreche, zu fördern und zu erhalten, sondern dieselben zu lockern, wie die Geschichte der letzten Jahre hinreichend beweise. ¶ Oesterreich selbst werde zur Erkenntniss gelangen, dass es sein Heil in einer autonomen liberalen Tarifreform finden müsse, und dass es in seinem eigenen Interesse gerathen sei, keine Verpflichtungen einzugehen, welche diese Reform irgendwie von fremdem Einfluss abhängig mache, und genau in derselben Lage sei der Zollverein. ¶ Von Seiten der Vertreter der Königlichen Staats-Regierung wurde bestätigt, dass in dem Art. 7 des Vertrages vom 28. Juni v. J. eine Verpflichtung zur Aufnahme von einer irgendwie articulirten Klausel über die künftige Zolleinigung in einem Handelsvertrag mit Oesterreich nicht enthalten sei. Als selbstverständlich betrachten es die unterzeichneten Commissionen, dass überhaupt das Abgeordnetenhaus sich durch die

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Genehmigung dieses Artikels nicht verbindlich mache, jeden ihm etwa vorgelegten Vertrag mit Oesterreich zu genehmigen, dass vielmehr eine genaue Prüfung des Vertrages und der freie Entschluss über die Genehmigung oder Nichtgenehmigung desselben vorbehalben bleibe. Auf die Anfrage, ob die Königliche Staats-Regierung in ihrer Erklärung vom 24. März v. J. in Bezug auf die Zolleinigungs-Klausel irgend ein Engagement eingegangen sei, erklärte der Vertreter der Königlichen Regierung, dass dieses nicht der Fall sei. ¶ Die unterzeichneten Commissionen gingen daher einstimmig über das angeregte Bedenken hinweg. ¶ Der dritte Hauptpunkt, welchen die allgemeine Debatte behandelte, betrifft die Frage des Präcipuums für Hannover und Oldenburg. Die vereinigten Commissionen erkannten an, dass die Bestimmungen über dasselbe in dem Verhältnisse des Verbrauchs einen äusserlichen, statistisch festzustellenden Anhaltspunkt nicht fänden, dass sie im Gegentheil lediglich das Ergebniss der Verhandlungen und der Interessen, welche sich auf beiden Seiten massgebende Geltung zu verschaffen wüssten, sein könnten. Die Veränderung, welche die Bestimmungen über das Präcipuum erfahren haben, ist Seite 111 ff. der Regierungs-Denkschrift ausführlich dargestellt und es geht daraus hervor, dass nach den neuen Bestimmungen der durchschnittliche Antheil der Staaten des früheren Steuervereins in den letzten Jahren um 12 Sgr. $1^6/_{10}$ Pf. auf den Kopf der Bevölkerung niedriger gewesen sein würde, als er sich gestellt hat. Da nun dem früheren Präcipuum ein Maximum von 20 Sgr. gestellt ist, so ergeben die neuen Bestimmungen eine Verminderung desselben auf die Hälfte und weniger. Der wesentlichste Unterschied der neuen Bestimmung besteht darin, dass früher ein um 75 Procent und höchstens 20 Sgr. pro Kopf höherer Antheil der Staaten des Steuervereins angeordnet war, während denselben jetzt eine Minimal-Einnahme aus den Zöllen ausschliesslich der Rübenzucker-Steuer garantirt ist. Während also früher die allgemeine Vermehrung des Verbrauchs zollpflichtiger Waaren in den Zollvereins-Staaten den Staaten des Steuervereins gleichmässig zuwuchs, findet jetzt eine Vermehrung der Einnahmen derselben pro Kopf so lange nicht statt, als nicht im übrigen Zollverein ein gleiches Einkommen pro Kopf der Bevölkerung, wie das den Staaten des früheren Steuervereins garantirte, erreicht ist. Hiernach stellt sich die neue Bestimmung finanziell wesentlich günstiger für die übrigen Zollvereins-Staaten, weil ihnen allein die Vermehrung des Ertrages zunächst zuwächst. Es ist zu gleicher Zeit, wenn in Folge der liberalen Handelspolitik eine erhebliche Steigerung der Einnahmen vorauszusetzen ist, in der neuen Bestimmung das Ende jedes Präcipuums garantirt, sobald die Einnahmen aus den Zöllen im Allgemeinen 27 Sgr. 6 Pf. pro Kopf der Zollvereins-Bevölkerung erreichen. Da das Präcipuum seiner Natur nach nur die Bedeutung eines Uebergangsverhältnisses haben kann, so ist es ein wesentlicher Fortschritt, dass ihm diese Bedeutung auch vertragsmässig gesichert ist. Allerdings würden Ausfälle in den Zoll-Einnahmen, welche in Folge allgemeiner Calamitäten etwa eintreten möchten, die übrigen Zollvereins-Staaten künftig ausschliesslich treffen, allein die Einnahme-Ausfälle müssten doch schon sehr bedeutend sein, wenn sie ein ungünstigeres finanzielles Resultat für dieselben herbeiführen sollten, als das durch die bisherigen Bestimmungen über das Präcipuum bewirkte. Die unter-

zeichneten Commissionen fanden also in den Bestimmungen über das Präcipuum eine erhebliche Verbesserung gegenüber dem bisherigen Zustande, und erkannten an, dass, wie die Verhandlungen sich bewegt haben, die Bewilligung dieses Präcipuums nicht wohl zu vermeiden war.

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PREUSSEN. — Bericht der vereinigten Commissionen des Hauses der Abgeordneten für Finanzen und Zölle und für Handel und Gewerbe über den Zoll- und Handelsvertrag zwischen dem Deutschen Zollverein und Oesterreich. —

[Auszug.]

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Nachdem durch die Verträge vom 28. Juni, 11. Juli und 12. October v. J. der Zollverein in seinem bisherigen Umfange wiederhergestellt war, nachdem ferner zwischen den Cabinetten von Wien und Berlin über einige principielle Fragen in Betreff des abzuschliessenden neuen Zoll- und Handelsvertrages zwischen Oesterreich und dem Zollverein eine Einigung erzielt war, traten im December v. J. in Berlin Bevollmächtigte der Zollvereinsstaaten, wie dies im Art. 7 des Vertrages vom 28. Juni v. J. und in Nr. 5 des Schlussprotokolls zum Vertrage vom 12. October v. J. vorgesehen war, zusammen, um über einen mit Oesterreich abzuschliessenden neuen Zoll- und Handelsvertrag, der an die Stelle des Vertrages vom 19. Februar 1853 treten und das durch diesen Vertrag „begründete Verhältniss zu Oesterreich in einer den innigen Beziehungen zu diesem Staate und den Interessen des Verkehrs mit demselben entsprechenden Richtung erhalten und weiter ausbilden sollte,“ zu verhandeln. Das Ergebniss der Verhandlung liegt vor in dem Vertrage vom 11. April d. J. und seinen Beilagen. Derselbe wurde durch Allerhöchste Ermächtigung vom 18. April d. J. den Häusern des Landtages, und zwar zunächst dem Hause der Abgeordneten zur verfassungsmässigen Zustimmung vorgelegt. — — ¶ Nachdem der Zollverein durch den Vertrag vom 2. August 1862 in das System der westeuropäischen Verträge eingetreten ist, ist es vorzugsweise seine Aufgabe, dem Princip des freieren Verkehrs im Osten von Deutschland weitere Gebiete zuzuführen durch Abschliessung von Verträgen auf gleicher Grundlage mit denjenigen Staaten, welche bisher noch einem mehr oder weniger prohibitiven Schutzsystem huldigen. Mit Oesterreich bestand bereits ein Vertragsverhältniss, begründet durch den Vertrag vom 19. Februar 1853, welches indess nicht auf gleicher Grundlage wie der Vertrag vom 2. August 1862, sondern auf dem Princip ausschliesslicher gegenseitiger Zollbegünstigung beruhte. Bekanntlich wurde der Vertrag vom 19. Februar 1853 zwischen Preussen und Oesterreich abgeschlossen, noch ehe die Zollvereinsverträge wieder erneuert waren, und es wurde durch diesen Abschluss den Forderungen der süddeutschen Zollvereins-Regierungen genügt, welche einen engeren Anschluss des Zollvereins an Oesterreich wünschten. Oesterreich hatte nämlich durch die Reform seines Zolltarifs denselben unter Aufgabe des Prohibitivsystems in ein solches Verhältniss zum Zoll-

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vereinstarif gebracht, dass er einem ausgeprägteren Schutzsysteme huldigte als dieser. Es hatte damit zugleich seine Zolleinigungs-Bestrebungen aufgenommen, welche nicht auf unmittelbare Zolleinigung, sondern auf Herstellung eines Verhältnisses zwischen dem Zollverein und Oesterreich gerichtet waren, welches Oesterreich einen Einfluss auf die Tarifgesetzgebung des Zollvereins, namentlich zur Verhinderung weitergehender Tarifreformen sicherte und durch Herstellung ausschliesslicher Handelsbeziehungen zwischen beiden Gebieten die materiellen Interessen des Zollvereins mit denen Oesterreichs so enge und ausschliesslich verknüpfte, dass eine Lösung des Zollvereins aus diesen seine Autonomie beschränkenden Banden schwer und eine spätere Zolleinigung, wenn solche den Interessen Oesterreichs genehm wäre, vorbereitet wurde. In dem Vorentwurfe des Vertrages von 1853 war ausdrücklich die Klausel enthalten, dass Tarifänderungen der beiden contrahirenden Theile gegenseitig von der Zustimmung des andern Theiles abhängig waren. Der Februar-Vertrag hatte dieses Princip nicht aufgenommen, er hatte dagegen durch ein System ausschliesslicher gegenseitiger Zollbegünstigungen, welches fast das ganze Gebiet der Erzeugnisse der Landwirthschaft und Industrie umfasste, eine ausschliessliche engere Beziehung zwischen dem Zollverein und Oesterreich geschaffen und zugleich dadurch, dass im Eingange des Vertrages als einen der Zwecke desselben die Anbahnung der allgemeinen Deutschen Zolleinigung ausgesprochen, im Art. 25 des Vertrages der Zusammentritt von Commissarien im Jahre 1860 stipulirt wurde, um über die Zolleinigung zwischen den contrahirenden Theilen und eventuell weitere Annäherung resp. möglichste Gleichstellung der beiderseitigen Tarife zu verhandeln, den eben bezeichneten Zolleinigungsbestrebungen Oesterreichs Vorschub geleistet. ¶ Es war hiermit nicht nur Oesterreich eine Handhabe gegeben, um den selbstständigen Bestrebungen des Zollvereins den Tarifänderungen und Handelsverträgen gegenüber seine Stimme geltend zu machen, es war auch eine Grundlage geschaffen für die Opposition der dem Oesterreichischen Streben zugeneigten Regierungen im Zollverein gegen die handelspolitischen und Tarifreform-Bestrebungen Preussens, und das Resultat ist ein zwölfjähriger Stillstand der Tarifgesetzgebung des Zollvereins gewesen. Gleichzeitig liess sich voraussehen, dass, durch den den geschützten Industrien des Zollvereins ausschliesslich eröffneten Markt des Oesterreichischen Gebiets, im Zollverein selbst eine Verbündung der Schutzzollinteressen mit den Oesterreichischen Interessen geschaffen würde, und dass auf diesem Wege die Oesterreichischen politischen Bestrebungen in lebendigen materiellen Interessen im Zollverein Unterstützung gewinnen würden. Die für die selbstständige Entwickelung der Gesetzgebung des Zollvereins gefahrvolle Bedeutung jenes Vertrages lag also nicht allein in seinen ausdrücklichen Stipulationen in Bezug auf die Zolleinigung, sondern auch darin, dass im Zollverein die materiellen Interessen an die Erhaltung und weitere Ausbildung des Systems der ausschliesslichen Zollbegünstigungen, welches ja einen Anfang der Zolleinigung bildet, geknüpft wurden. Durch die Bestimmung, dass, wenn der Zollverein seinen allgemeinen Tarif ermässige, Oesterreich berechtigt sei, seinen Zwischenzolltarif entsprechend zu erhöhen, wurde einem verstärkten Widerstande gegen eine liberalere Handelspolitik eine materielle

Grundlage geschaffen. Durch das Zollcartel wurde Oesterreich in der Aufrechterhaltung seines hohen Tarifs eine wirksame Beihilfe geleistet und indem durch das Verhältniss des allgemeinen Zollvereinstarifs zu dem Zwischenzolltarif und dem allgemeinen Oesterreichischen Tarif, der Zollverein gewissermassen zu einem Vorlande Oesterreichs wurde, welches den prohibitiven Tarif Oesterreichs in zwei Zonen zerlegte, deren eine an der Aussengrenze des Zollvereins, die andere an der Oesterreichischen Zwischenzollgrenze lag, bildete das Verhältniss zwischen dem Zollverein und Oesterreich eine Sicherung des Prohibitiv-Schutzsystems in Oesterreich, welches ohne eine solche Beihilfe wohl nicht hätte bis auf den heutigen Tag aufrecht erhalten werden können. Bei der Genehmigung des Vertrages vom 19. Februar 1853 im Preussischen Abgeordnetenhause wurde den auf die Zolleinigung bezüglichen Klauseln eine wesentliche Bedeutung nicht beigelegt. Man betrachtete sie als die zur Phrase abgeschwächte formale Erwähnung der bisherigen Bestrebungen Oesterreichs und machte geltend, dass eine wirkliche Verpflichtung zum Eingehen der Zolleinigung darin nicht gegeben sei. Für die weitere Ausbildung des Systems der gegenseitigen Zollbegünstigungen waren ausser den schon erwähnten Verhandlungen des Jahres 1860 ausserdem nach Art. 3 Verhandlungen über weiter gehende Verkehrserleichterungen vorbehalten, welche am 1. Januar 1854 beginnen sollten. Die Eröffnung derselben verzögerte sich jedoch bis 1858 und auch dann hatten sie kein Resultat. Lediglich die über das Münzwesen vorbehaltenen Verhandlungen führten zu dem Münzvertrage vom 24. Januar 1857. Zu den für das Jahr 1860 angeordneten Verhandlungen über Zolleinigung oder über weitergehende Verkehrserleichterungen erklärte sich Preussen im Jahre 1860 bereit, bemerkte jedoch, dass es beim Eintritt in die Verhandlungen in der Lage sein würde, eine Zollvereinigung zwischen dem Zollverein und Oesterreich bestimmt abzulehnen. Oesterreich liess das Jahr 1860 ablaufen, ohne von dieser Bereitwilligkeit Preussens Gebrauch zu machen und antwortete auf jene Erklärung erst 13 Monate später, im September 1861, in einem auf die inzwischen begonnenen Verhandlungen mit Frankreich bezüglichen Promemoria durch die ganz beiläufige Bemerkung, dass dieselbe mehr formale als reale Bedenken gegen sich hatte, „denn von keiner Seite wurde sich verhehlt, welche fast unübersteiglichen Hindernisse gerade im gegenwärtigen Augenblicke die gänzliche Zolleinigung Oesterreichs und der Zollvereinsstaaten zu bekämpfen hätte." Auch auf Seiten der mit Oesterreich enger befreundeten Zollvereins-Regierungen scheint man damals den Klauseln des Vertrags von 1853 eine wesentliche Bedeutung nicht beigelegt zu haben. Freiherr v. Schrenck erwähnte in einer Depesche vom 7. Juni 1861, welche sich auf den Bericht, den Preussen über den Gang der Verhandlungen mit Frankreich erstattet hatte, bezog, an zwei Stellen des Verhältnisses zu Oesterreich: zuerst im Eingange, wo Herr v. Schrenck nach Erklärung seines Einverständnisses mit der Generalisirung der an Frankreich zu machenden Zugeständnisse fortfuhr: „Die Bayerische Regierung betrachtet indessen diese Consequenz nicht als eine blos unbestimmte und thatsächliche, sondern sie glaubt, dass die Verhältnisse zu den übrigen Nachbarstaaten, insbesondere zu Oesterreich und der Schweiz entweder gleichzeitig oder in Folge der Verhandlungen mit Frankreich vertragsmässig fest-

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gestellt werden müssen." Sodann gegen den Schluss, wo bemerkt wird: „Auch in Bezug auf die Verhältnisse zu Oesterreich ist bereits oben bemerkt worden, dass die Bayerische Regierung es für nothwendig erachtet, noch vor dem Abschlusse des Vertrages mit Frankreich eine Verständigung mit Oesterreich zu vezsuchen, um auf Grundlage des Vertrages vom 19. Februar 1853 weitere Zollermässigungen für die zollvereinsländischen Erzeugnisse zu erlangen, weil sonst nach Art. 2 dieses Vertrages die an Frankreich gewährten Zollermässigungen auch an Oesterreich ohne Gegenreichniss gewährt werden müssten." Von Preussischer Seite wurde auf diese Depesche sofort erklärt, dass man Verhandlungen mit Oesterreich erst nach Abschluss der Verhandlungen mit Frankreich für an der Zeit halte. Dieser Erklärung gegenüber beharrte die Bayerische Regierung damals auf der in der Depesche vom 7. Juni ausgesprochenen Ansicht nicht. Herr v. Schrenck besorgte also damals blos, dass eine Herabsetzung der Zollsätze des allgemeinen Tarifs unter die Zollsätze des durch den Februar-Vertrag für Oesterreich festgestellten Begünstigungs-Tarifs von Seiten Oesterreichs ohne Gegenreichniss bleiben würde. Von einem aus dem Februar-Vertrage herzuleitenden Einspruchsrechte Oesterreichs gegen eine solche Tarifherabsetzung war durchaus nicht die Rede, obgleich Oesterreich, wie Freiherr v. Hock in einem in der Oesterreichischen Revue veröffentlichten Aufsatze „die Verhandlungen über ein Oesterreichisch-Deutsches Zollbündniss von 1849 bis 1864" erzählt, schon am 21. April 1861 eine Depesche nach Berlin, München und Dresden gerichtet hatte, in welcher es über die Stellung Oesterreichs gegenüber einem umfangreichen Handelsvertrage zwischen Frankreich und dem Zollverein sich ausführlich aussprach. ¶ Die am 21. September 1861 *) von Oesterreich an die Zollvereins-Regierungen versandte Denkschrift, in welcher es seinen Einwendungen gegen einen mit Frankreich abzuschliessenden Handelsvertrag bestimmteren Ausdruck giebt, ist veröffentlicht worden. Diese Denkschrift erkannte das Bestreben des Zollvereins durch einen Vertrag mit Frankreich, in diesem Lande gleiche Rechte mit England und Belgien zu erlangen, als ein höchst billigenswerthes an. Die Kaiserliche Regierung war weit entfernt, sich berechtigt zu glauben, auf diese innere Angelegenheit einen bestimmenden Einfluss üben zu können. Sie wolle nichts als „offen die Rückwirkung darstellen, welche das Ergebniss der Verhandlungen zwischen Frankreich und dem Zollverein bei dem engen Verbande der durch den Februar-Vertrag zwischen Oesterreich und dem Zollverein begründet wurde, theils auf die materiellen Interessen Oesterreichs, theils auf seine gegenwärtige handelspolitische Stellung zum Zollverein üben wird." Die Ermässigung der vereinsländischen Aussenzölle würde Oesterreich nöthigen, seine Zwischenzölle für die Erzeugnisse des Zollvereins zu erhöhen und dadurch die Kluft zwischen sich und dem Zollverein zu erweitern; denn das Schutzbedürfniss der Oesterreichischen Industrie erlaube nicht eine Ermässigung der Oesterreichischen Aussenzölle. Die Einräumung der Rechte der meist begünstigten Nation, wie Frankreich sie bisher sich immer ausbedungen, und eine über das Jahr 1865 hinausreichende Dauer des Fran-

*) No. 424.

zösischen Vertrages würde eigentlich jede Fortbildung des Oesterreichischen Februar-Vertrages und wahrscheinlich dessen Fortsetzung über die Vertragsdauer hinaus geradezu unmöglich machen. ¶ Schliesslich wurde die Bitte ausgesprochen, die Zukunft über das Jahr 1865 hinaus nicht binden zu wollen: „Der Französische Vertrag wäre für Oesterreich und vielleicht selbst für andere Staaten eine so schwere Last, dass Anstand genommen werden müsste, sie, sei es bei Eingehung eines Zollbündnisses, oder auch nur bei Abschluss eines tiefgreifenden Handels- und Zollvertrages mit zu übernehmen." ¶ Nachdem am 29. März 1862 die Verträge zwischen Preussen und Frankreich paraphirt worden waren, sandte Graf Rechberg unter dem 7. Mai 1862 *) ein Memorandum nach Berlin, welches sich beklagte, dass in dem paraphirten Vertrage alle jene Bestimmungen — der Art. 31, die über 1865 hinaus erstreckte Dauer, die unzuträglichen Zollermässigungen — enthalten seien, deren Fernhaltung im Interesse der Aufrechterhaltung und Fortbildung der engen Handelsbeziehungen zwischen Oesterreich und dem Zollvereine die Kaiserliche Regierung bevorwortet hatte. Dasselbe ging dann zu einer Kritik des paraphirten Vertrages über, bezeichnete als die eigentliche Intention desselben durch die Annahme eines Systems, welchem Oesterreich mit Rücksicht auf seine Industrie nicht folgen könne, und durch Abschluss eines Vertrages, welcher jedes engere Verhältniss Oesterreichs zum Zollverein für die ganze Zukunft des letzteren unmöglich mache, die handelspolitische Trennung Oesterreichs von Deutschland zur dauernden Thatsache zu erheben und deducirt endlich, wie folgt: — „Allerdings haben die Contrahenten von 1853 sich im E i n z e l n e n die Freiheit ihrer Tarifgesetzgebung gewahrt. Kein Theil hat Aenderungen e i n z e l n e r Tarifsätze, die ihm nöthig scheinen würden, von der Genehmigung des anderen abhängig gemacht, sondern der Art. 4 des Vertrages hat für den Fall, wenn der eine Theil den Tarifsatz für eine der im Zwischen-Zolltarif genannten Waaren erniedrigt, dem andern nur das Recht entsprechender Erhöhungen des Zwischenzolles vorbehalten. Aber es besteht augenscheinlich ein wesentlicher Unterschied zwischen einzelnen Zollermässigungen, wie sie veränderten Conjuncturen bezüglich des einen oder des anderen Handelsartikels entsprechen können, und der Februar-Vertrag sie nicht ausschliessen wollte, und e i n e r u m f a s s e n d e n d i e s e n V e r t r a g i n s e i n e r G r u n d l a g e a n g r e i f e n d e n A e n d e r u n g d e s g a n z e n S y s t e m s d e r T a r i f i r u n g. Einzelne Zollsätze können herabgesetzt werden, ohne dass dadurch die Contrahenten des Februar-Vertrages der in dessen Eingangsworten feierlich ausgesprochenen Absicht, die Zollvereinigung anzubahnen, zuwiderhandelten, oder auch nur den im Art. 25 desselben Vertrages event. vorgezeichneten Zweck m ö g l i c h s t e r A n n ä h e r u n g u n d G l e i c h s t e l l u n g d e r b e i d e r s e i t i g e n Z o l l t a r i f e beeinträchtigten. Solche einzelnen Tarifänderungen konnte sonach der Art. 4 des Vertrages gestatten. Eine totale Reform des Tarifs aber, eine Reform, welche den Unterschied der beiden Tarife, statt ihn auszugleichen, systematisch erweitert, durch welche der eine Theil vom Schutzzollsystem zum Systeme niedriger Finanzzölle übergeht, ohne zu fragen, ob der

*) No. 426.

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andere Theil ihm folgen kann, und die er überdies nicht auf dem Wege der inneren Gesetzgebung, sondern durch einen bindenden Vertrag mit einer dritten Macht verwirklicht, eine solche Reform kann nicht mehr unter die Vorschrift des Art. 4 des Vertrages von 1853 fallen, sondern sie befindet sich im offenbaren Widerspruche sowohl mit der Eingangsformel des Vertrags, welche den hohen vertragschliessenden Theilen das Ziel der Deutsch-Oesterreichischen Zolleinigung vorzeichnet, als mit dem Art. 25, welcher für den Fall, dass die Zolleinigung im Jahre 1860 noch nicht zu Stande käme, die Verpflichtung begründet, wenigstens die möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife anzustreben. Die Kaiserliche Regierung ist es sich daher schuldig, und sie glaubt es auch den wohlverstandenen Interessen Deutschlands schuldig zu sein, auszusprechen, dass sie in der Annahme der am 29. März d. J. zu Berlin zwischen Preussen und Frankreich paraphirten Vereinbarungen Seitens des Zollvereins eine Störung und Hintansetzung des zwischen Oesterreich und dem Zollverein durch den Vertrag vom 19. Februar 1853 begründeten Vertragsverhältnisses würde erblicken müssen.“ — Hiermit war es ausgesprochen, dass Oesterreich das vertragsmässige Ziel der Zolleinigung dahin auslegte, dass der Zollverein seinen Tarif nicht reformiren dürfe, ohne Oesterreichs Einwilligung dazu einzuholen. Für die Tarifpolitik des Zollvereins sollten nicht die Interessen des Verkehrs, nicht die Entwickelung der Industrie und Cultur, nicht die Ernährung der Arbeiter, sondern einzig der Zweck der Zolleinigung massgebend sein. Graf Bernstorff trat dieser Auslegung entgegen: — „Mir ist keine Acte“ — sagte er in der Depesche vom 28. Mai 1862 *) — „kein Vertrag, keine Abrede bekannt, woraus Oesterreich das Recht herleiten könnte, Einspruch gegen derartige Verträge zu erheben, welche Preussen und der Zollverein mit irgend einer dritten Nation abzuschliessen für gut finden; ich muss für Preussen und den Zollverein mit aller Entschiedenheit die volle Freiheit in Anspruch nehmen, in dieser Hinsicht unbeschränkt lediglich nach eigenem Ermessen zu verfahren.“ ¶ Ferner: — „Wenn also die Denkschrift darüber klagt, dass wir die Wünsche Oesterreichs bei unsern Verhandlungen mit Frankreich nicht berücksichtigt hätten, so muss ich diese Klage mit der Bemerkung zurückweisen, dass alsdann jede Tarifreform und jeder Vertrag der Art mit einer dritten Nation einfach unmöglich gewesen wäre. Ebenso muss ich die Behauptung ablehnen, dass wir den Vertrag vom 19. Februar 1853 unbeachtet gelassen hätten; ich finde keine Bestimmung dieses Vertrages nachgewiesen, die wir unmittelbar oder mittelbar ihrem Wortlaut oder ihrer Absicht nach verletzt hätten. Endlich kann ich die rückhaltlose Offenheit, mit welcher die Annahme hingestellt wird, dass der Zollverein zu einer Reform seines Tarifs ohne die Zuziehung oder gar Zustimmung Oesterreichs nicht befugt sei, nur mit gleicher Offenheit erwidern, indem ich jede derartige Annahme bestimmt abweise.“ — ¶ Indessen konnte Preussen nicht hindern, dass die Regierungen von Bayern und Württemberg die von Oesterreich beliebte Auslegung des Februarvertrages zu der ihrigen machten. Es geschah dies beispielsweise von Seiten Bayerns in

*) No. 427.

No. 1985. Preussen, 16. Mai 1865.

der Depesche vom 8. August 1862 *), von Seiten Württembergs in einer Depesche aus derselben Zeit **), in welcher es sogar für geboten erklärt wurde, bei einer demnächst vorzunehmenden Berathung über theilweise Aenderungen des Zolltarifs auch Oesterreich eine Mitwirkung einzuräumen. ¶ Am 10. Juli 1862 ***) machte Graf Rechberg seine vielbesprochenen Propositionen, welche den Französischen Handelsvertrag zunächst beseitigen, eine Art von industrieller Zolleinigung auf Grundlage des bisherigen Zollvereins-Tarifs mit Aufrechthaltung der Zolllinie für eine grosse Anzahl von Artikeln herstellen und demnächst unter Mitwirkung Oesterreichs einen neuen Handelsvertrag mit Frankreich abschliessen lassen wollten. Er bezeichnete dieselben als die Erfüllung dessen, was Oesterreich und Preussen am 19. Februar 1853 feierlich für das Ziel ihres gemeinsamen Strebens erklärt haben und erwartete von Preussen, dass es auf die Berathung dieser Propositionen sofort eingehen werde. — ¶ „Stände — heisst es in dieser Depesche — uns in dieser hochwichtigen Angelegenheit Preussen gesondert in seiner Eigenschaft als Europäische Macht gegenüber, so könnten wir Angesichts der Verabredungen, in welche Preussen mit Frankreich sich eingelassen hat, die Umstände allerdings kaum dazu angethan finden, uns dem Cabinette von Berlin mit dem Antrage auf Annahme dieser Vertragsentwürfe zu nahen. Allein wir haben diesen Antrag an den Deutschen Zollverein, also vor Allen an Preussen als Mitglied und leitende Macht dieses Vereins zu richten. Und dieselben Verhältnisse, welche diesen Unterschied begründen, berechtigen uns auch zu der Hoffnung, dass Preussen in unserem Anerbieten eine die Lage der Dinge vollständig verändernde Thatsache erkennen und den ganzen Werth desselben für das zollvereinte wie für das durch den Bundesvertrag geeinigte Deutschland unabhängig von früher entstandenen Verwicklungen zu würdigen wissen werde." — ¶ Graf Bernstorff antwortete unterm 20. Juli †) auf diese letzte Aufforderung: „In der Depesche, mit welcher der Herr Graf v. Rechberg dem Herrn Grafen v. Karolyi diese Vorschläge übersendet, verschweigt derselbe die Bedenken nicht, welche die Kaiserliche Regierung vor Mittheilung derselben an uns zu überwinden hatte. Er hebt hervor, dass die Verabredungen, in welche wir uns mit Frankreich eingelassen haben, eine solche Mittheilung kaum angänglich gemacht haben würden, wenn allein unsere Stellung als Europäische Macht in Betracht gekommen wäre. Er erblickt indessen in dem Umstande, dass die Vorschläge Oesterreichs an den Zollverein, also an uns nur als Mitglied dieses Vereins gerichtet sind, und dass sie eine vollständige Veränderung der bisherigen Sachlage mit sich bringen, einen Unterschied, durch welchen die aus unserm Verhältniss zu Frankreich hergeleiteten Bedenken gehoben werden. ¶ Es hat uns nicht gelingen wollen, diesen Unterschied uns klar zu machen, oder, wenn er vorhanden sein sollte, als wesentlich anzuerkennen. Dem Kaiserlichen Herrn Minister der auswärtigen Angelegenheiten ist bekannt, dass wir den Handelsvertrag mit Frankreich nicht in unserem Namen, nicht als Europäische Macht, sondern im Auftrage der Zoll-

*) No. 442.

**) No. 443. Vom 11. August.

***) No. 430.

†) No. 431.

No. 1985. Preussen, 16. Mai 1865.

vereins-Regierungen und als Mitglied des Zollvereins verhandelt haben, also eben in der Eigenschaft, in welcher wir jetzt die Vorschläge Oesterreichs entgegenzunehmen haben. ¶ Wie dem aber auch sei, so vermögen wir gegenüber den Verpflichtungen, welche wir als Europäische Macht oder als Mitglied des Zollvereins im Wege des Vertrages oder durch einseitige Handlungen übernommen haben, nur einen Gesichtspunkt als leitend anerzukennen: das Festhalten am gegebenen Worte." — ¶ Graf Rechberg suchte in seiner Erwiderung vom 26. Juli 1862*) nachzuweisen, dass Oesterreich kraft eines älteren Rechtes das Eingehen auf die Verhandlungen über die Propositionen vom 10. Juli verlangen könne: — „Gestützt auf den Art. 25 des Handels- und Zollvertrages vom 19. Februar 1853 glauben wir die Eröffnung von Unterhandlungen über unser Anerbieten nicht blos aus Zweckmässigkeitsrücksichten, sondern auch, wie hiermit geschieht, als ein uns zustehendes Recht in Anspruch nehmen zu können. Es sollten nach diesem Artikel im Jahre 1860 Commissarien der contrahirenden Staaten zusammentreten, um über die Zolleinigung zwischen beiden Theilen, oder falls eine solche Einigung noch nicht zu Stande gebracht werden könnte, über weitere Verkehrs-Erleichterungen und möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife zu unterhandeln. Diese commissarischen Unterhandlungen sind seither aufgeschoben worden, aber die Verpflichtung, die Hand zu denselben zu bieten, dauert fort. Oesterreich hat nunmehr als Grundlage für die Vollziehungen dieses Vertrags-Artikels ein bestimmtes und bis ins Kleinste ausgebildetes Programm der Zolleinigung vorgelegt, — die Kaiserliche Regierung glaubt nicht, dass der Zollverein, Preussen an der Spitze, es ihr mit Recht verweigern könne und dürfe, auf die gemeinsame Berathung ihres Vorschlages einzugehen." ¶ Graf v. Bernstorff antwortete unter dem 6. August 1862**): „In dem Vertrage vom 19. Februar 1853 waren weitere commerzielle Verhandlungen zwischen dem Zollverein und Oesterreich in zwei Abstufungen in Aussicht genommen. Zunächst für das Jahr 1854 über eine Erweiterung der in der Anlage I. des Vertrages vereinbarten Verkehrs-Erleichterungen — Art. 3 — sodann für das Jahr 1860 über eine Zolleinigung, oder, falls eine solche Einigung noch nicht zu Stande gebracht werden könnte, über weitergehende, als die bereits vereinbarten und durch die Verhandlungen des Jahres 1854 festzustellenden Verkehrserleichterungen, sowie über möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife — Art. 25. — Die für das Jahr 1854 vorgesehenen Verhandlungen, deren Eröffnung sich bis zum Januar 1858 verzögerte, wurden im April desselben Jahres sistirt, ohne dass sie zu der gewünschten Verständigung geführt hatten. Die Kaiserliche Regierung, welcher die Entschliessung über die Wiederaufnahme derselben von Seiten des Zollvereins anheimgestellt war, erklärte im October 1859, dass auf diese Wiederaufnahme ohne erhebliche Unterbrechung der vertragsmässigen Bestrebungen zur weiteren gegenseitigen Annäherung verzichtet werden könne, da bereits das Jahr 1860 herannahe, in welchem zu den im Art. 25 des Vertrages vorgesehenen umfangreichen Verhandlungen zu schreiten sein werde. Sie constatirte in

*) No. 432.

**) No. 441.

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einem im Juli 1860 uns übergebenen Promemoria von Neuem, dass die Einleitung dieser letzteren Verhandlungen an der Reihe stehe, und wir beeilten uns, unser Einverständniss mit dieser Auffassung zu erklären. Wir glaubten es der Kaiserlichen Regierung schuldig zu sein, gleich bei dieser Erklärung offen auszusprechen, dass wir bei dem Eintreten in jene Verhandlungen in der Lage sein würden, den Abschluss einer Zolleinigung, wenn solcher in Antrag gebracht werden sollte, bestimmt abzulehnen. ¶ „Es war hiernach im Jahre 1860 volles gegenseitiges Einverständniss darüber vorhanden, dass die für dieses Jahr vorgesehenen Verhandlungen fällig seien; die Kaiserliche Regierung hat indessen damals die Eröffnung derselben anscheinend nicht für angezeigt erachtet, jedenfalls nicht angeregt. Unsere, auf die Eventualität einer Zolleinigung bezügliche Erklärung ist dabei nicht bestimmend gewesen, da in der Denkschrift der Kaiserlichen Ministerien der Finanzen und des Handels, welche uns Graf Chotek im September v. J. mittheilte, die fast unübersteigbaren Hindernisse anerkannt werden, mit welchen gerade im gegenwärtigen Augenblick die gänzliche Zolleinigung Oesterreichs und der Zollvereinsstaaten zu kämpfen hätte. ¶ „Ich bin weit davon entfernt, hieraus folgern zu wollen, dass die im Art. 25 eingegangene gegenseitige Verpflichtung erloschen sei, weil sie zu der, für ihre Ausführung bestimmten Zeit nicht in Anspruch genommen worden ist. Nachdem aber diese Zeit verstrichen ist, ohne dass Oesterreich die Erfüllung jener Verpflichtung in Anspruch genommen hat, kann ich ihm die Befugniss nicht zugestehen, zu jedem ihm angemessen erscheinenden Zeitpunkte die Erfüllung zu fordern, und nehme auch für uns eine Stimme bei der Wahl des geeigneten Zeitpunktes in Anspruch. Wann dieser Zeitpunkt eingetreten sein wird, habe ich oben bemerkt.“ — ¶ Es geht aus diesem Depeschenwechsel zur Evidenz hervor, dass die in den Vertrag von 1853 aufgenommenen unklaren Bestimmungen in Betreff der künftigen Zolleinigung die Quelle tiefen Zerwürfnisses zwischen den vertragschliessenden Theilen geworden sind und dass sie den Boden gebildet haben, auf welchem der Widerstand Oesterreichs und der mit ihm befreundeten Zollvereins-Regierungen gegen den Handels-Vertrag vom 2. August 1862, dessen Ausführung bis zum 1. Juli d. J., also um drei Jahre, verzögert hat, eine Verzögerung, welche für unsere gesammte Industrie von unberechenbarem Nachtheile gewesen ist. Nach dem Abschluss des Handels-Vertrags vom 2. August 1862 war es Preussens Aufgabe, bei den Verhandlungen über einen neuen Vertrag mit Oesterreich dieselben Principien zu Grunde zu legen, welche dem Vertrage von 1862 als Basis dienten, also durch diesen Vertrag eine allgemeine Tarifreform in Oesterreich zu bewirken und dieselbe durch vertragsmässige Feststellung der Zollsätze unter den Schutz des Völkerrechts zu stellen. Dass eine Erneuerung eines Vertrages, der auf eine Zolleinigung abzielt und vorbereitet, welche Preussen nicht nur aus wirthschaftlichen und finanziellen, sondern auch aus politischen Gründen nicht will und nicht wollen kann, und über welche Oesterreich eine klare Vorstellung nicht hat, nicht im Interesse des Zollvereins liegt, kann nicht bestritten werden. Aber eine solche Verschränkung der Autonomie auch der Oesterreichischen Handelspolitik liegt nicht einmal im Interesse Oesterreichs, welcher Staat vielmehr wegen seiner bedeutenden politischen Aufgaben im Osten und der un-

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günstigen Lage seiner Finanz-Verhältnisse sich in der Gestaltung seiner Steuer- und Zollgesetzgebung lediglich nach den Interessen seiner Bevölkerung freie Hand bewahren müsste. Ein klarer Handelsvertrag, der einen, wenn auch nur mässigen Schritt zu einer freieren Tarifgesetzgebung in Oesterreich zur Folge hätte und damit Oesterreich auf dieselbe Bahn drängte, auf welche der Zollverein sich begeben hat, liegt im offenbaren beiderseitigen Interesse. Eine Ausdehnung eines solchen Vertrages auf die gegenseitige Unterstützung beim Schutz der Zollgrenzen kann aus den sonstigen intimen Beziehungen der vertragschliessenden Theile motivirt werden, wenn die übrigen Bestimmungen des Vertrages damit im Einklang stehen. Nicht blos unklare Bestimmungen über die Zolleinigung waren bei dem neuen Vertrage zu vermeiden, sondern auch jede Erzeugung von ausschliesslichen Handelsbeziehungen, welche, wie die Verhältnisse einmal liegen, stets zu derselben Entwickelung des Kampfes zwischen Preussen und Oesterreich hinführen, welche wir in den letzten Jahren zu beklagen Ursache gehabt haben. Auch vom Standpunkte der gesunden wirthschaftlichen Entwickelung aus ist die Entstehung von Exportinteressen im Zollverein, die auf der ausschliesslich für sie erfolgten Eröffnung des Oesterreichischen Marktes beruhen, durchaus nicht wünschenswerth, da die auf solchen Export angewiesenen Industrien künstlich geförderte, von der Willkür eines fremden Staates abhängige Zollschutzindustrien sind, gleich den lediglich auf den geschützten inländischen Markt speculirenden. Wie aber Oesterreich die Politik ausschliesslicher Zollbegünstigung des Zollvereins so lange Jahre hat treiben können, ohne inne zu werden, dass es auf diesem Wege seine Industrie der Concurrenz aussetzt, ihr aber nicht in der freien Auswahl und wohlfeilen Zugänglichkeit der Dinge, deren sie bedarf, die Mittel der Concurrenz zu begegnen gewährt, dass es also dem Pferde gleichsam die Sporen, aber keinen Hafer giebt, ist nur daraus zu begreifen, dass man in Oesterreich mit seinen handelspolitischen Bestrebungen bisher lediglich politische Zwecke verfolgte. Im wohlerkannten beiderseitigen Interesse musste Preussens Bestreben darauf gerichtet sein, in Oesterreich die Zolleinigungspolitik zu Falle und Oesterreich in die Lage zu bringen, seine Tarifgesetzgebung autonom lediglich nach den wirthschaftlichen Interessen seines Landes und den finanziellen Interessen seines Staates einzurichten; wurde dies erreicht, und die Oesterreichische Tarifreform durch einen Handelsvertrag gefördert und gesichert, so war das neue Verhältniss Oesterreichs zum Zollverein in Bezug auf den Tarif das, dass es an Tarifermässigungen im Zollverein genau dasselbe Interesse hatte, wie jeder andere Staat. Hat das System ausschliesslicher Zollbegünstigungen, welches zwischen beiden Ländern 11 Jahre bestanden hat, in Bezug auf die Tarifpolitik und das gegenseitige Einvernehmen ungünstige Folgen gehabt, so ist der auf Grund dieses Systems erwachsene Verkehr zwischen beiden Ländern, soweit es sich um die dem Schutzzoll unterworfenen industriellen Erzeugnisse handelt, nicht von grosser Bedeutung geworden. Es hat dies zum Theil seinen Grund in den Oesterreichischen Valutenverhältnissen, welche den Import nach Oesterreich erschweren, zum Theil aber auch darin, dass eben die Ausschliesslichkeit der Zollbegünstigungen der Entwickelung eines umfangreichen Verkehrs im Wege steht, da sie das Ein-

treten grösserer Wohlfeilheit der gegenseitig ausgetauschten Erzeugnisse verhindert. ¶ So sehr auch ins Auge fällt, dass der Zollverein einen verhältnissmässig grossen Theil des Oesterreichischen Imports an Industrieerzeugnissen lieferte, wie dies bei der Lage seines Gebiets auch ohne jene ausschliesslichen Zollbegünstigungen der Fall sein würde, so ist doch die ausserordentlich geringe Ausbildung der Handelsbeziehungen unverkennbar. ¶ Schon während der Verhandlungen der Zollvereins-Conferenz über Erneuerung der Zollvereins-Verträge im März v. J. fanden zwischen zwei hochgestellten handelspolitischen Beamten Oesterreichs und Preussens in Prag Besprechungen statt über die Grundlagen für einen Vertrag zwischen dem Zollverein und Oesterreich, soweit derselbe unter der Voraussetzung der Durchführung des Französischen Handelsvertrages sich herstellen lasse. Von Oesterreichischer Seite wurden die Ergebnisse dieser sogenannten Prager Besprechung als unbefriedigend geschildert, und während Preussen die Zollvereins-Verträge mit einem Theile der Staaten des Zollvereins erneuerte, fanden in München zwischen den Staaten der Minorität und einem Oesterreichischen Bevollmächtigten Besprechungen statt, welche zur Feststellung von Punctationen führten, wie sie nach jenseitiger Ansicht dem Vertrage zwischen Oesterreich und dem Zollverein zu Grunde zu legen seien. Die Oesterreichische Regierung überreichte in einer an den Grafen Chotek gerichteten Depesche vom 28. Juli v. J.*) diese Punctationen dem Berliner Cabinet mit der Aufforderung, nunmehr (also nach dem Abschluss der Zollverträge vom 28. Juni und 10. Juli und vor dem Wiedereintritt Bayerns, Württembergs, Nassaus und Hessen-Darmstadts in den Zollverein) auf Grund dieser Punctationen Verhandlungen zu eröffnen. ¶ „Nach Art. 25 des Februarvertrags“, heisst es in dieser Depesche, „haben wir einen Anspruch darauf, dass in erster Linie über die ausdrücklich stipulirte Zolleinigung verhandelt werde, und es wäre diese Verhandlung durch die vom Zollverein dazu delegirten Regierungen von Preussen, Bayern und Sachsen mit uns zu führen. Nachdem jedoch die Verhandlungen über den Preussisch-Französischen Handelsvertrag in ein so vorgerücktes Stadium getreten sind, so ist in den Münchener Punctationen für jetzt auf der Grundlage der Zolleinigung und auf einer Verhandlung über unsere eigenen Vorschläge vom 10. Juli 1862 nicht mehr bestanden worden, wir haben vielmehr durch die Registratur vom 12. d. M. die Verpflichtung übernommen, die gedachten Punctationen an erster Stelle der Königlich Preussischen Regierung für eine nächste Zollvereinsperiode lediglich als Grundlage eines Uebereinkommens zur Fortbildung der Bestimmungen der Februarverträge vorzuschlagen und wir glauben, dass die wesentlichen Vorbedingungen am zweckmässigsten zwischen Oesterreich und Preussen — den gegenwärtigen eng befreundeten Beziehungen entsprechend — festgestellt werden sollten.“ ¶ Nachdem dem Wunsche Preussens, die Verhandlungen zwischen Preussen und Oesterreich, die als Vorverhandlungen charakterisirt werden, bis nach dem 1. October (dem den Süddeutschen Zollvereins-Staaten für den Eintritt in den Zollverein gestellten Termin) zu verschieben, das Interesse Oesterreichs, über die vorliegende Frage für den im Laufe des Monats October zusammentretenden Reichsrath Gewissheit

*) No. 1994.

No. 1985. Preussen, 16. Mai 1865.

zu haben, gegenübergestellt war, hiess es am Schluss: ¶ „Damit wir es unsererseits an aller Bereitwilligkeit sowohl als an wünschenswerther Bestimmtheit nicht fehlen lassen, nehmen wir keinen Anstand, im Voraus für die directe Verhandlung mit Preussen zwei Punkte von eminent politischer Bedeutung mit aller Offenheit zu bezeichnen, welche in unserem Auge die Vorbedingungen unseres Eingehens in die Verhandlungen und zugleich den Prüfstein des Gelingens derselben bilden. Das Ziel einer künftigen Zolleinigung müssen wir auch über die nächste Zollvereins-Periode hinaus vertragsmässig festhalten, und wir müssen vor der ausschliesslichen Verhandlung mit Preussen darauf bestehen, dass uns deshalb eine bündige Zusage von vornherein gegeben werde. Das ist unsere erste und unerlässliche Vorbedingung. Die zweite geht dahin, dass die von Oesterreich zu verlangenden Begünstigungen früher verabredet und dass die Grundzüge des zwischen Oesterreich und dem Zollverein zu erneuernden Vertragswerkes früher festgestellt werden, als die Ratification des Französischen Handelsvertrages erfolgt. Die von Oesterreich zu verlangenden besonderen — d. h. von der Theilnahme Frankreichs auszuschliessenden — Begünstigungen werden sich auf einige wenige Artikel beschränken. Hiernach glauben wir die zuversichtliche Hoffnung hegen zu dürfen, dass die Königlich Preussische Regierung unsere Eröffnungen in ernste Erwägung ziehen und uns baldigst eine entgegenkommende Rückäusserung darüber zugehen lassen werde, ob ihr unter den kundgegebenen Vorbedingungen ein erneuertes Zusammentreten beiderseitiger höherer Fachbeamten zum Zweck der Verständigung genehm ist, welche Persönlichkeit sie dazu ausersicht und welche Oertlichkeit ihr passend erscheint. Sollte wider Erwarten das Königliche Cabinet es ablehnen, in die angebotene Verhandlung sofort einzutreten, so würden wir zu unserm grössten Bedauern darin eine Missachtung der uns gegenüber bestehenden Vertragsverpflichtungen erkennen müssen und wir würden uns keiner Täuschung darüber hingeben, dass ein solches Vorgehen unvereinbar sein würde mit dem zwischen beiden Regierungen so glücklich bestehenden bundesfreundlichen Verhältnisse.“ ¶ Es erfolgte hierauf die Antwort des Herrn v. Bismarck in einer aus Schönbrunn datirten, an den Preussischen Gesandten in Wien, Freiherrn v. Werther, gerichteten Depesche vom 25. August v. J.*). ¶ Hiermit schliessen die Vorverhandlungen über den vorliegenden Vertrag, soweit sie bekannt geworden sind, ab. Es fand im September v. J. die in der Schönbrunner Depesche zugestandene zweite Vorbesprechung zwischen einem Preussischen und einem Oesterreichischen Commissarius statt. ¶ Der zweite der von Oesterreich aufgestellten Präjudizialpunkte ist dem Wesen nach aufgegeben. ¶ Ueber das, was in Betreff des Princips der Zolleinigung in den Vertrag aufzunehmen sei, scheint unmittelbar vor der Eröffnung des Oesterreichischen Reichsraths eine Einigung stattgefunden zu haben; denn in der Thronrede, womit der Oesterreichische Reichsrath Mitte November v. J. eröffnet wurde, wurde in dieser Beziehung Folgendes ausgesprochen: ¶ „Seit einer Reihe von Jahren nimmt die volkswirthschaftliche Einigung Deutschlands, welche im 19. Artikel der Bundesacte als ein Ziel der Bestrebungen des Bundes bezeichnet, in späteren Verträgen bestimmtere Gestalt

*) No. 1995.

No. 1985. Preussen, 16 Mai 1865.

und einen den Zeitverhältnissen entsprechenden Ausdruck erhalten hat, die volle Aufmerksamkeit Meiner Regierung in Anspruch. Zur gedeihlichen Lösung dieser Aufgabe, die im Bundesverhältniss gelegen und für die Interessen Oesterreichs von hoher Wichtigkeit ist, sind Verhandlungen nothwendig geworden, welche von Meiner Regierung mit jenem Ernst, welcher der Sache gebührt, noch gegenwärtig fortgeführt werden. Die Ergebnisse derselben werden Ihnen von Meiner Regierung mitgetheilt werden, und Ich hoffe, dass sie für die Feststellung des neuen Zolltarifs, welche im Laufe dieser Session zu erfolgen hat, nicht ohne günstigen Einfluss sein werden." ¶ Die hier erwähnte Einigung über die Grundlage der Verhandlungen scheint die Voraussetzung gewesen zu sein, unter welcher nach der Erneuerung der Zollvereins-Verträge zwischen sämmtlichen dem Zollvereine angehörigen Staaten (12. October v. J.)*) und nach der Erledigung der nachträglichen Verhandlungen mit Frankreich (14. December v. J.)**) die Conferenzen zwischen den Bevollmächtigten Preussens, Bayerns und Sachsens einerseits und Oesterreich andererseits in der zweiten Hälfte des Decembers v. J. eröffnet wurden, aus welchen der vorliegende Vertrag hervorgegangen ist. ¶ Es handelt sich bei der Prüfung des aus diesen langwierigen und verwickelten Verhandlungen hervorgegangenen Vertrages zunächst im Wesentlichen darum, festzustellen, wie weit er sich in seinen Grundlagen von denen des Vertrages von 1853 entfernt, und wie er sich in dem Umfange der durch denselben geordneten gegenseitigen Verhältnisse zu demselben verhält. ¶ Der vorgelegte Vertrag vom 11. April d. J.***) unterscheidet sich von dem Vertrage vom 19. Februar 1853 in mehreren sehr wesentlichen Beziehungen. 1. Derselbe ist zwischen Oesterreich und dem Zollverein abgeschlossen, während der Februar-Vertrag zwischen Oesterreich und Preussen abgeschlossen war und den Deutschen zum Zollverein gehörigen oder beitretenden Staaten, sowie den damals mit Oesterreich in Zolleinigung befindlichen oder in Zukunft in Zolleinigung tretenden Italienischen Staaten den Beitritt vorbehielt. Der gegenwärtige Vertrag hält den Beitritt lediglich denjenigen Deutschen Staaten offen, welche in Zukunft dem Zollverein beitreten werden. (Art. 26 in beiden Verträgen.) — 2. Die gegenseitigen Verkehrs-Erleichterungen sind zwar, wie 1853, formell an die Bedingung des unmittelbaren Uebertritts der Waaren und Producte aus dem freien Verkehr des einen Gebiets in das andere geknüpft. Allein, während der Vertrag von 1853 beiderseitig darauf basirte, dass die gegenseitig eingeräumten Zollbegünstigungen ausschliessliche seien, ist das bei dem gegenwärtigen Vertrage nicht der Fall. ¶ Der Zollverein macht seinen, vom 1. Juli d. J. in Kraft tretenden allgemeinen Tarif in Bezug auf die in die Anlage B. aufgenommenen Rohproducte und Fabrikate zu einem vertragsmässigen, so dass die Zollsätze während der Dauer des Vertrages Oesterreich gegenüber nicht erhöht werden dürfen, und gesteht Oesterreich über seinen allgemeinen Tarif hinaus die S. 67 der Denkschrift aufgeführten Zollbefreiungen und Zollermässigungen zu, welche jedoch vermöge

*) No. 1705.

**) No. 1772.

***) No. 1836.

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des Art. 31 des Vertrages vom 2. August 1862 auch Frankreich eingeräumt werden müssen und nach dem einmal angenommenen Princip der Verallgemeinerung unterliegen, in Betreff deren am 13. Mai von der Königlichen Staats-Regierung ein Gesetz-Entwurf in das Abgeordnetenhaus eingebracht worden ist. Er beabsichtigt hierdurch eine weitere Reform seines Tarifs ins Leben treten zu lassen, welche besonders durch die Zollbefreiung von Getreide, Sämereien und Mühlenfabrikaten, durch die Herabsetzung von Butter und Käse, mehrerer Glassorten, Handschuhleder u. s. w. für den Verkehr von erheblichem Werthe sein wird. Die bestehenden Zollsätze für Getreide sind zwar sehr klein, sie bedingen aber eine belästigende Controlle der (zollfreien) Durchfuhr, welche schon verschiedene dringende Anträge auf Aufhebung dieser finanziell unerheblichen Zollsätze hervorgerufen hat. ¶ Oesterreich seinerseits behält sich allerdings völlig freie Hand, die eingeräumten Ermässigungen des Eingangs-Zolltarifs als ausschliessliche zu behandeln, es hat sich indess bei den Unterhandlungen von dem Gesichtspunkte leiten lassen, dass dieselben zu verallgemeinern und somit zu einer Reform seines allgemeinen Tarifs umzugestalten sind. Bereits früher, als den Vertrag, hat die Oesterreichische Regierung dem Reichsrathe einen Tarif-Entwurf vorgelegt, der im Wesentlichen den Tarif A. des Vertrages in sich aufnimmt und sich in den betreffenden Zollsätzen nur in 21 Punkten von dem Tarif A. unterscheidet. ¶ In den Ausgangszöllen stimmt der Oesterreichische Tarifentwurf vollständig mit den Bestimmungen des Art. 5 des vorliegenden Vertrages überein. ¶ Würde also der Oesterreichische Entwurf eines allgemeinen Tarifs zum Gesetz erhoben, so beständen über denselben hieraus Begünstigungen des Zollvereins. ¶ a) für gewisse Producte, welche einen weiten Transport nicht ertragen, deren Zollerleichterung also lediglich den Grenzverkehr trifft, b) für sehr vereinzelte Erzeugnisse anderer Art. ¶ Es ist kaum vorauszusetzen, dass Oesterreich gerade diese Zollbegünstigungen als ausschliessliche bestehen lassen wird; sollte dies dennoch geschehen, so würden dieselben so unerheblich sein, dass ihnen eine das exceptionelle Zollbegünstigungen ausschliessende Grundprincip des Oesterreichischen Tarifs alterirende Bedeutung kaum beizulegen sein würde. ¶ Dagegen ist freilich der andere Fall in Aussicht zu nehmen, dass der vorgelegte Oesterreichische Zolltarif nicht, oder wenigstens nicht mit der vollen projectirten Ermässigung der Zollsätze zum Gesetz wird. In diesem Falle werden die neuen Sätze des allgemeinen Oesterreichischen Tarifs für die betreffenden Artikel die Summe der Sätze des Zollvereinstarifs und des Oesterreichischen Vertragstarifs höchstens erreichen, nicht übersteigen dürfen, wofern nicht eine Umgehung der Zollsätze des allgemeinen Oesterreichischen Tarifs mittelst des zollvereinsländischen Zwischenhandels ermöglicht werden soll. ¶ Nach ihren Erklärungen in der Reichsraths-Commission beabsichtigte die Oesterreichische Regierung ursprünglich höchstens eine Uebergangs-Periode bis zur Verallgemeinerung des Vertragstarifs zulassen zu wollen. ¶ Wenn Oesterreich einmal in die Tarif-Reformbewegung eingetreten ist, wird sich der Abschluss anderweitiger Verträge, namentlich mit Frankreich, als unabweisliches Bedürfniss geltend machen. Nimmt man dies an, so würde nicht nur eine Verallgemeinerung des Vertragstarifs auch in Oesterreich, sondern auch eine weitere Herabsetzung desselben in

verschiedenen Positionen in Aussicht stehen. Immerhin bleibt aber die Möglichkeit keineswegs ausgeschlossen, ja, sie ist durch die Bestimmungen des vorliegenden Vertrages ausdrücklich vorbehalten, dass Oesterreich einen allgemeinen Tarif annimmt, der den Tarif A. als ausschliesslich den Zollverein begünstigenden Zwischenzolltarif charakterisirt und Oesterreich mit seinem Tarif zu dem Zollverein in dieselbe Stellung bringt, welche es vermöge des Vertrages vom 19. Februar 1853 einnahm, und welche einerseits im Zollverein Interessen schafft, die, auf die ausschliessliche Ausbeutung des Oesterreichischen Marktes angewiesen, in handelspolitischen Fragen für Oesterreich Partei ergreifen, und welche andererseits Oesterreich ein Interesse daran giebt, dass der Zollverein seinen allgemeinen Tarif nicht weiter herabsetze. ¶ In Rücksicht auf die Ausschliessung differenzieller Zollbegünstigungen steht also der Vertrag, was den Zollverein angeht, vollständig auf dem Boden der westeuropäischen Verträge, was Oesterreich angeht, so ist die Möglichkeit differenzieller Begünstigung des Zollvereins aufrecht erhalten, die Ausschliessung derselben sofort oder nach einer kürzeren oder längeren Zwischenperiode ist nicht gesichert, vielmehr nur eine Eventualität, die deshalb mit grösserer oder geringerer Zuversicht in Aussicht genommen werden kann, weil der Tarif A. auf die Verallgemeinerung angelegt ist, während dies im Februarvertrage nicht der Fall war. ¶ 3. Was die Höhe der Zollsätze in den Tarifen A. und B. des Vertrages angeht, so beruhen die Tarife zwar, wie im Vertrage von 1853, auf der „Grundlage des freien Einganges roher Naturerzeugnisse und des gegen ermässigte Zollsätze zu gestattenden Eingangs gewerblicher Erzeugnisse beider Länder“, aber die beiderseitige Ausschliessung des leitenden Gesichtspunktes differenzieller Zollbegünstigungen hat zur Folge gehabt, dass — ¶ a) die Parität der beiderseitigen Tarife nicht so weit durchgeführt ist, wie 1853, ¶ b) dass die Tarife in vielen Beziehungen der Erleichterung des Verkehrs nicht so günstig ausgefallen sind, wie 1853. ¶ Dass die Parität, in Betreff welcher indess auch der Zwischenzolltarif von 1853 strengen Anforderungen nicht überall entsprach, nicht so weit durchgeführt ist, hat seinen Grund darin, dass beide Theile sich durch die Rücksicht auf die Verallgemeinerung des Vertragstarif bestimmen lassen mussten. Da der Zweck der westeuropäischen Verträge auf vertragsmässige Feststellung und Sicherung der durch das eigene Interesse dictirten Tarifreformen gerichtet ist, so können sie nicht auf dem Princip voller Parität beruhen, indem dieses die Durchführung eines gleichen Tarifs für alle Länder Europas voraussetzte. Bei einem reinen Handelsvertrage ist also, wie schon öfter nachgewiesen wurde, von den Anforderungen der Parität der beiderseitigen Zollsätze abzusehen. Für den vorliegenden Vertrag kommt aber die Parität in einer andern Beziehung in Betracht, in Rücksicht nämlich auf das Zollcartel. Dieses stipulirt eine gegenseitige Unterstützung in der Unterdrückung des Schmuggels. Unter der — bekanntlich nicht zutreffenden — Voraussetzung, dass die Grenzbewachung beiderseits eine gleich wirksame ist, würde strenge genommen eine solche Unterstützung nur dann auf wirklicher Gegenseitigkeit beruhen, wenn die Tarifsätze des einen Staates die Waaren des andern nicht in höherem Grade prohibirten, als die Tarifsätze des andern die Waaren des einen. Derjenige Staat, welcher

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die niedrigeren Tarifsätze hat, gewährt die grössere, gewährt sogar eine mit den eigenen Interessen schwer vereinbare Leistung. Da nun der Zollverein die niedrigeren Tarifsätze und überdies eine ungleich wirksamere Grenzbewachung hat, so gewährt er in dem Zollcartel eine einseitige sehr werthvolle Leistung. ¶ Was zweitens die in dem neuen Vertrage, gegenüber dem Vertrage von 1853 vielfach und erheblich höheren Tarifsätze angeht, so steht dieser Erschwerung des Verkehrs andererseits die wichtige Verbesserung gegenüber, dass beiderseits durch die Ermässigung des allgemeinen Tarifs eine grössere Wohlfeilheit und somit die Vermehrung der Möglichkeit eines umfangreicheren Absatzes, wenn auch zu mässigeren Preisen herbeigeführt wird, resp. auf Oesterreichischer Seite in Aussicht steht, wenn der Tarif verallgemeinert wird. ¶ Geht man von der Voraussetzung aus, dass Oesterreich seinen Vertragstarif verallgemeinert, also mit diesem Vertrage in eine freisinnigere Handelspolitik eintritt, so ist, um in dieser Beziehung den Werth des Vertrages festzustellen, nothwendig ¶ a) eine Vergleichung der Zollsätze des Tarifs A. mit den Zollsätzen des jetzt geltenden allgemeinen Oesterreichischen Tarifs. Diese Vergleichung ergiebt allerdings, namentlich in Betreff der Industrieproducte, wesentliche Ermässigungen. Indess ist diese Vergleichung von geringem Werth, weil Oesterreich, auch ohne den Vertrag, nicht im Stande ist, seinen jetzigen Tarif aufrecht zu erhalten, vielmehr eine Herabsetzung des allgemeinen Tarifs auf die Sätze des Tarifs A. im Wege der autonomen Tarifreform in die Hand genommen hat. Zur vollen Würdigung des handelsfreiheitlichen Schrittes Oesterreichs ist also unerlässlich ¶ b) eine Vergleichung des Tarifs A. mit den Sätzen des neuen Zollvereinstarifs. Diese Vergleichung ergiebt zugleich die Materialien zur Beurtheilung der Frage der Parität. ¶ Im Allgemeinen geht aus dieser Vergleichung hervor, dass die Zollsätze in Oesterreich, namentlich in den feineren Qualitäten der Waaren wesentlich höher sind, als im Zollverein, während sie in den gröberen nicht in gleichem Verhältniss über den Tarif des Zollvereins stehen. Man kann das Urtheil dahin zusammenfassen, dass der Oesterreichische Tarif, wenn er verallgemeinert würde, ungefähr dasselbe Verhältniss zu dem neuen Zollvereinstarif haben würde, wie der bisherige Oesterreichische Tarif zu dem bisherigen Zollvereinstarif. ¶ Das Regime der der Zollfreiheit unterliegenden Rohproducte und Fabrikmaterialien ist in dieser Vergleichung nicht berührt worden, weil es in der ganzen Richtung der Entwickelung des Oesterreichischen Tarifs liegt, diese Befreiungen auch ohne Vertrag vorzunehmen und weiter auszubilden. Darauf soll indess hier aufmerksam gemacht werden, dass durch diesen Vertrag in Verbindung mit den übrigen Westeuropäischen Verträgen eine sehr grosse Zahl von Producten hingestellt wird, welche in allen West- und Mitteleuropäischen Ländern bis Oesterreich einschliesslich volle vertragsmässige Zollfreiheit geniessen. Es wird dadurch eine Vereinfachung aller Tarife herbeigeführt, die eine unverkennbare Bedeutung hat. — ¶ 4. Ein wesentlicher Unterschied zwischen dem vorliegenden Vertrage und dem Vertrage von 1853 besteht in den Vereinbarungen, welche unter der Voraussetzung getroffen sind, dass der Allgemeine Zolltarif Oesterreichs höher bleibt als sein Vertragstarif. Unter dieser Voraussetzung der ausschliesslichen Be-

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günstigung der Zollvereinswaaren auf dem Oesterreichischen Markte ist es, wie erwähnt, da der Vertrag Ursprungszeugnisse zunächst ausschliesst, nothwendig, dass zwischen den Zollsätzen, welche Oesterreich bei dem Uebergang der Waaren aus dem freien Verkehr des Zollvereins auf sein Gebiet erhebt, und den Zollsätzen des Allgemeinen Zollvereins- und des Allgemeinen Oesterreichischen Tarifs ein solches Verhältniss besteht, dass nicht eine Umgehung des Allgemeinen Oesterreichischen Tarifs dadurch herbeigeführt wird, dass die Waaren zuerst im Zollverein und dann zum Uebertritt auf das Oesterreichische Gebiet verzollt werden. Gegenwärtig würde Oesterreich durch dieses Verhältniss gezwungen sein, in seinem Allgemeinen Tarif wesentliche Herabsetzungen vorzunehmen, damit die Sätze des Allgemeinen Zollvereinstarifs und des Oesterreichischen Eingangszolltarifs für Zollvereinswaaren zusammen die Sätze des Oesterreichischen Allgemeinen Zolltarifs übersteigen. Dies setzt der Vertrag, da er Ursprungszeugnisse principaliter ausschliesst, unbedingt voraus. Es blieb indessen übrig, eine Stipulation für den Fall zu treffen, dass der Zollverein seine Tarifsätze im Laufe der Vertragsperiode weiter ermässigt, das gegenwärtig hergestellte Verhältniss also gestört wird. In dem ursprünglich in Wien aufgestellten Vertrags-Entwurfe, der dem Vertrage vom 19. Februar 1853 zu Grunde gelegen hat, war in Art. 4 stipulirt, dass die Zollermässigungen des einen Theils der Zustimmung des andern Theils bedürften. Der Vertrag von 1853 setzte fest (Art. 4): — ¶ „Wenn während der Dauer des gegenwärtigen Vertrages in dem Gebiete des einen oder des andern der contrahirenden Staaten Erhöhungen der allgemeinen tarifmässigen Eingangszölle gegen den gegenwärtig gültigen Tarif eintreten sollten, so bleiben diese auf die in der Anlage I. vereinbarten Verkehrserleichterungen ohne Einfluss. ¶ Wenn aber einer der contrahirenden Theile für eine von den in der Anlage I. genannten Waaren eine Ermässigung seines gegenwärtigen Allgemeinen Zolltarifs, sei es allgemein oder für gewisse Grenzstrecken oder Zollämter, eintreten lassen will, so liegt ihm ob, dem anderen Theile von dieser Ermässigung mindestens drei Monate vor deren Eintreten Nachricht zu geben, und es bleibt dann vorbehaltlich anderweiter Verständigung dem andern Theile freigestellt, diese Waare einem Zwischenzoll, beziehungsweise einer Erhöhung des Zwischenzolls und zwar in dem einen wie in dem anderen Falle in einem der jenseitigen Zollermässigung entsprechenden Betrage zu unterwerfen. Wer von dieser Befugniss Gebrauch macht, wird die Veränderung vier Wochen vor deren Eintreten veröffentlichen.“ ¶ Es war also an eine Ermässigung des allgemeinen Zollvereinstarifs die nachtheilige Wirkung geknüpft, dass Oesterreich berechtigt wurde, seinen Zwischenzolltarif entsprechend zu erhöhen, so dass die betheiligten zollvereinsländischen industriellen Interessen nicht nur eine Verschärfung der auswärtigen Concurrenz, sondern gleichzeitig eine Erschwerung der Ausfuhr nach Oesterreich zu befahren hatten. Diese thatsächlich die Autonomie des Zollvereins schwer beeinträchtigende Bestimmung ist in dem gegenwärtigen Vertrage nicht wiederholt worden. Es ist in Art. 4 bei Zollermässigungen allerdings wieder die vorherige Anzeige angeordnet, dagegen dem andern Theile lediglich freigestellt, „diese Waaren künftig nur gegen Beibringung von Ursprungszeugnissen zollfrei, beziehungsweise gegen den ver-

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abredeten Zoll zuzulassen.“ ¶ Eine Ermässigung der Tarifpositionen des Zollvereins würde also lediglich zur Folge haben können, dass Oesterreich Ursprungszeugnisse für die betreffenden Artikel verlangte, während der Vertrag augenblicklich von Ursprungszeugnissen überall absieht. ¶ 5. Die Zahl der Oesterreichischerseits zulässigen Ausgangszölle ist wesentlich vermindert, die betreffenden Zollsätze herabgesetzt, die gegenseitige Freiheit von Durchfuhrzöllen, nachdem inzwischen die Durchfuhrzölle aufgehoben sind, vertragsmässig stipulirt, und zugleich die neue werthvolle Bestimmung aufgenommen, dass die bei der Ausfuhr gewisser Erzeugnisse bewilligten Ausfuhr-Vergütigungen nur die Zölle oder inneren Steuern ersetzen dürfen, welche von den gedachten Erzeugnissen oder von den Stoffen, aus denen sie gefertigt worden sind, erhoben sind. Eine darüber hinausgehende Ausfuhrprämie sollen sie nicht erhalten. ¶ 6. Schon der Februar-Vertrag gestattete beiderseits Befreiung von Ein-, Aus- und Durchgangsabgaben für Waaren, welche aus dem freien Verkehr in dem einen Gebiete in das andere auf Märkte oder Messen gebracht, oder auf ungewissen Verkauf versandt, in dem andern Gebiete aber nicht in den freien Verkehr gesetzt, sondern unter der Controlle der Zollbehörden in öffentlichen Niederlagen gelagert werden, wenn sie binnen einer im Voraus zu bestimmenden Frist zurückgeführt werden, ebenso für Vieh, endlich für eine Reihe von Gegenständen zur Veredelung, wenn sie binnen einer bestimmten Frist, unter Controlle der Identität wieder zurückgehen (Veredelungsverkehr). ¶ Dieser Verkehr ist nicht nur in den Formalitäten erleichtert, sondern der zollfreie Verkehr zur Veredelung hat auch eine Erweiterung erfahren, indem zu demselben (Art. 6) neu zugelassen sind: ¶ a) Lettern zum Umgiessen, ¶ b) Stroh zum Flechten, ¶ c) Gewebe und Garne zum Färben, ¶ d) Gespinnste, einschliesslich der erforderlichen Zuthaten, zur Herstellung von Spitzen und Posamentierwaaren, ¶ e) Häute und Felle zur Leder- und Pelzwerkbereitung, ¶ f) Garne in gescheerten und geschlichteten Ketten nebst dem erforderlichen Schussgarn zur Herstellung von Geweben. ¶ Es spielen hier zwei Momente in einander: Einmal wird die Zuhülfenahme der Hausindustrie (Weberei, Spitzenklöppelei u. s. w.) jenseits der Grenze für die an der Grenze angesessenen Fabrikanten und Händler gegenseitig erleichtert, und in dieser Beziehung wird das Verhältniss sich meist so gestellt haben, resp. künftig stellen, dass zollvereinsländische Fabrikanten von der Möglichkeit, Oesterreichische Arbeiter auf Oesterreichischem Gebiete zu beschäftigen, reichlichen Gebrauch machen. So weit betrifft diese Erleichterung wesentlich den Grenzverkehr, und in dieselbe Kategorie gehört die gegenseitige Aushülfe der Fabrikanten in den Industriebezirken Böhmens, Schlesiens und Sachsens, die vor der Grenze durchschnitten werden. Andererseits nimmt aber dieser Veredelungsverkehr auch grössere Dimensionen an, indem schon bisher Oesterreichische Gewebe weit in das Innere des Zollvereins, bis nach Berlin, zum Bedrucken geschickt wurden (1862 22,030 Ctr.), ein Verhältniss, welches, gleich wie die durch diesen Vertrag neu zugelassene Färberei, der mehr vorgeschrittenen zollvereinsländischen Industrie vom Werthe ist. In Oesterreich hofft man entsprechende Vortheile von der zum Veredelungsverkehr zugelassenen Appretur von Häuten und Fellen, der Veredelungsverkehr will daher in manchen Bezie-

hungen die Erschwerungen ausgleichen, welche durch Erhöhung der Zwischenzollplätze herbeigeführt werden. Eben aus diesem Grunde ist indess nicht zu leugnen, dass der Veredelungsverkehr auch ein ähnliches erweitertes Verhältniss von ausschliesslichen Beziehungen zwischen dem Zollverein und Oesterreich schafft, welche durch Gewöhnung der beiderseitigen Industrien an diese ausschliesslichen Beziehungen ein natürliches Streben nach Erweiterung derselben und ein Widerstreben gegen jede etwaige Lösung derselben erzeugen. Es wird ein in die Kategorie der thatsächlichen Anbahnung der Zolleinigung gehörendes engeres Verhältniss geschaffen, resp. erweitert; denn die Zolleinigung ist, unter Voraussetzung eines schutzzöllnerischen Tarifs nichts weiter, als die Herstellung vollkommen freier, aber ausschliesslicher Verkehrsbeziehungen zwischen den sich vereinigenden Theilen. Dagegen ist ebenso wenig zu leugnen, dass diese Zulassung der Concurrenz der zollvereinsländischen Industrie auf dem Oesterreichischen Markte ein wesentliches Motiv zur Förderung und Ausbildung der mehr der Handelsfreiheit zugeneigten Richtung in Oesterreich bilden kann, dass also hierin, wenn auch die politischen Interessen Oesterreichs den Charakter der Ausschliesslichkeit erhalten sehen möchten, in den materiellen Interessen ein Gegengewicht geschaffen wird, welches, da der vertragsmässige Tarif nicht erhöht werden darf, zur Erleichterung der Oesterreichischen Industrie auf weitere herabsetzende allgemeine Tarifreformen hindrängen muss. ¶ 7. Die Befreiung der im Zwischenverkehr begünstigten Waaren von inneren Abgaben, welche im Art. 9 des Vertrages von 1853 stipulirt war, ist in den gegenwärtigen Vertrag nicht wieder aufgenommen. Da im Zollverein ohnehin eine derartige Bestimmung für die eingeführten zollpflichtigen Artikel besteht, so ist in dieser Nichtwiederaufnahme jener Bestimmung Oesterreich eine Concession gemacht, die indess wohl dadurch motivirt werden kann, dass Oesterreich bei seiner finanziellen Lage nicht wohl einen solchen allgemeinen Verzicht auf innere Besteuerung auszusprechen vermag. ¶ 8. Die Bestimmungen des Vertrages von 1853 über die Münzverhältnisse sind in den gegenwärtigen Vertrag nicht aufgenommen, da sie inzwischen durch den Münzvertrag von 1857 ihre Erledigung gefunden haben. ¶ 9. Während im Eingange des Vertrages die Angabe, dass er zum Zwecke der „Anbahnung der allgemeinen Deutschen Zolleinigung“ abgeschlossen sei, unverändert stehen geblieben ist, sind in den hiermit im Zusammenhange stehenden Bestimmungen Veränderungen eingetreten. Es ist in Art. 1 die Stipulation fortgelassen, dass sofort im ersten Jahre des Bestehens des Vertragsverhältnisses Commissarien zusammen treten sollten, um sich über weitere Verkehrserleichterungen zu einigen. Während ferner im Art. 25 des Vertrages von 1853 bestimmt war, — dass im Jahre 1860 Commissarien der contrahirenden Staaten zusammentreten sollten, um über die Zolleinigung zwischen den beiden contrahirenden und den ihrem Zollverbande alsdann angehörenden Staaten oder, falls eine solche Einigung noch nicht zu Stande gebracht werden könnte, über weitergehende, als die am 1. Januar 1854 eintretenden und durch die im Art. 3 erwähnten commissarischen Verhandlungen nachträglich festzustellenden Verkehrserleichterungen und über möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife zu unter-

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handeln, — ist im Artikel 25 des gegenwärtigen Vertrages a) nicht ein bestimmtes Jahr für eine solche Verhandlung festgestellt, sondern jedem der beiden contrahirenden Theile freigestellt, sobald er den für die Verhandlung geeigneten Zeitpunkt für gekommen erachtet, dem anderen seine Vorschläge zu machen und dadurch das Zusammentreten von Commissarien der vertragenden Theile zum Behufe der Verhandlung zu veranlassen; b) in den Zwecken dieser Verhandlung ist die umgekehrte Folge aufgestellt, indem zunächst von der möglichsten Annäherung der Zolltarife und demnächst erst von der Zolleinigungsfrage die Rede ist; c) während es im Art. 25 des Februar-Vertrages hiess: „über weitergehende Verkehrserleichterungen und möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife," sind die Worte „und Gleichstellung" weggelassen; d) während im Vertrage von 1853 von Verhandlungen über eine Zollvereinigung zwischen beiden contrahirenden Theilen und den ihrem Zollverbande alsdann angehörenden Staaten, also von einer Zolleinigung zwischen dem Zollverein und Gesammt-Oesterreich, event. sogar den zum Oesterreichischen Zollverbande gehörigen Italienischen Staaten die Rede war, heisst es im Art. 25: „dass man über die Frage der Allgemeinen Deutschen Zolleinigung in Verhandlung zu treten sich vorbehalte. Endlich e) ist in dem Art. 25 des gegenwärtigen Vertrages die Klausel: „Es wird beiderseits anerkannt, dass die Autonomie eines jeden der vertragenden Theile in der Gestaltung seiner Zoll- und Handels-Gesetzgebung hierdurch nicht hat beschränkt werden wollen," hinzugefügt, welche in dem Vertrage von 1853 fehlte. ¶ Es ist also die Auseinanderhaltung der Allgemeinen Deutschen Zolleinigung im Eingange und der Zolleinigung zwischen den contrahirenden Theilen im Art. 25 beseitigt, und in beiden Fällen nur von der „Allgemeinen Deutschen Zolleinigung" gesprochen worden. ¶ Unter der Allgemeinen Deutschen Zolleinigung ist aber nicht die Zolleinigung zwischen den contrahirenden Theilen, dem Zollverein und Oesterreich einschliesslich seiner nicht zum Deutschen Bunde gehörigen Länder, sondern lediglich die Zolleinigung zwischen den Deutschen Bundesstaaten, also ausschliesslich der nicht zum Bunde gehörigen Theile der Oesterreichischen Monarchie zu verstehen. Dies ist wohl der Grund, weshalb der Art. 25 nicht von Verhandlungen über die Allgemeine Deutsche Zolleinigung, sondern über die Frage der Allgemeinen Deutschen Zolleinigung spricht. ¶ Den Folgerungen zu Ungunsten der handelspolitischen Autonomie des Zollvereins, welche Oesterreichischerseits aus den betreffenden Klauseln des Vertrags von 1853 gezogen wurden, hat man durch die hinzugefügte, die Autonomie wahrende Klausel vorzubeugen gesucht. Dagegen ist Oesterreich in die Lage versetzt, nach seiner Wahl die commissarischen Verhandlungen zu dem ihm geeignet scheinenden Standpunkte eintreten zu lassen, während es früher an ein bestimmtes Jahr gebunden war und der übrige Raum für die anderweitigen Bestrebungen des Zollvereins offen gehalten wurde. In der Commission wurden Zweifel laut, ob Oesterreich nicht den Art. 15 so auslegen könne, dass es nach seinem Belieben mehrmals commissarische Verhandlungen verlangen könne. Die überwiegende Mehrheit der Commission theilte indessen diese Auffassung nicht, sondern war in Uebereinstimmung mit den Vertretern der Staats-Regierung der Meinung, dass aus der Wahl des Ausdrucks

„so bald" unzweifelhaft folge, dass man nicht habe meinen können und wollen: „so oft". ¶ In der Erwähnung der Allgemeinen Deutschen Zolleinigung im Eingange und an dieser Stelle, ist Oesterreich die Concession gemacht, dass seine Zolleinigungs-Politik nicht unberührt blieb. Eine Verpflichtung irgend welcher Art, welche die Handelspolitik des Zollvereins bindet oder gar ihn zum Eingehen auf die Zolleinigung verbindlich machte, liegt hierin offenbar nicht. Das Positive, was Oesterreich eingeräumt wird, ist die Befugniss, commissarische Verhandlungen zu dem angegebenen Zwecke zu verlangen. Aber die Bedenken, welche gegen diesen Artikel in seiner Verbindung mit dem Eingange bestehen, und die nicht dadurch beseitigt werden, dass es nothwendig befunden ist, ausdrücklich die Autonomie zu wahren, würden unter der einen Bedingung wegfallen, dass sich voraussetzen liesse, dass sich in Oesterreich an die gegenwärtige Tarifreform eine weitere Reformbewegung und Reform-Entwickelung knüpft, welche den materiellen Interessen, die im Kaiserstaate leben, und auf eine autonome und freisinnige Tarifreform hindrängen, über die politischen Interessen, welche eine Hand im Zollverein zu haben bestrebt sind, das Uebergewicht gäbe. Unter dieser Bedingung würde sowohl das Interesse Oesterreichs von der ihm eingeräumten Befugniss Gebrauch zu machen, als auch die Möglichkeit einer wirksamen Coalition der Zollschutz-Interessen im Zollverein mit den politischen in Oesterreich schwinden. Es würde an die Stelle der beständigen Versuche im Interesse der Zolleinigung eine weitere Entfernung des Zollvereinstarifes von dem Oesterreichischen zu verhindern, eine wohlthätige Concurrenz zwischen beiden Theilen in der handelspolitischen Entwickelung treten. Kann man dieses nicht voraussetzen, so ist es kaum zu bezweifeln, dass der Art. 25 zwar nicht die Zolleinigung (denn an die Möglichkeit derselben wird, so lange sich die politische Lage Deutschlands nicht ändert, oder nicht jeder Zollschutz wegfällt, wohl weder in Oesterreich, noch im Zollverein gedacht werden können), wohl aber jenes Bestreben, die Handelspolitik des Zollvereins auf ihrem gegenwärtigen Standpunkte festzuhalten, jene grossen Schwierigkeiten, welche sich dem Abschlusse neuer Handelsverträge entgegenstellen, wieder herbeiführen wird. ¶ Es wird von Interesse sein, hier die Worte anzuführen, mit welchen der Freiherr von Hock bei Einbringung des Vertrages in den Oesterreichischen Reichsrath dieser Klausel gedachte. — Sie lauten: „Wir verkennen nicht, dass jene Zwecksetzung und dieses Versprechen nicht von praktischem Nutzen sind. Der verheissenen Verhandlung kann schon dadurch genügt werden, dass bei derselben der eine Theil das Einigungs-Anerbieten des andern einfach ablehnt oder dessen Annahme an unmögliche Bedingungen knüpft; auch das Versprechen der Verhandlung ist überdies mannichfach verklausulirt; allein dessenungeachtet ist durch diese Vertragsbestimmungen das gewonnen, dass das Princip der handelspolitischen Zusammengehörigkeit aller Deutschen Staaten neuerdings ausgesprochen und Oesterreich — was für selbes von Bedeutung war — der Abschluss eines Handelsvertrags mit dem Zollverein ohne Verzichtleistung auf dieses, in der Bundes-Acte wie im Februarvertrag völkerrechtlich anerkannte Princip möglich geworden ist." ¶ Fasst man die Veränderungen, welche mit dem Vertrage von

*) Wiener Zeitung, No. 100 vom 2. Mai 1865.

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1853 vorgenommen sind, in einen kürzern Ausdruck zusammen, so hat der gegenwärtig vorliegende Vertrag in ungleich höherem Grade den Charakter eines reinen Handelsvertrages, welcher die Tarifreform-Entwickelung in Oesterreich fördert und den Bedingungen, unter welchen beide Theile ihre Erzeugnisse austauschen, eine vertragsmässige Garantie giebt, als der von 1853; die Ausschliesslichkeit der gegenseitigen Zollbegünstigungen ist auf Seiten des Zollvereins ganz beseitigt; auf Seiten Oesterreichs ist der Vertragstarif in seinen Zollsätzen zwar auf die Verallgemeinerung berechnet, die Möglichkeit, ihn nicht zu verallgemeinern, aber durch die übrigen Vertragsbestimmungen, wenn auch nicht durch die Berechtigung, allgemeinen Tarifherabsetzungen des Zollvereins mit Erhöhungen des Zwischen-Zolltarifs zu antworten, so doch durch die Zulässigkeit der Forderung von Ursprungszeugnissen, vorbehalten. Dagegen ist es nicht gelungen, die von der Zolleinigung sprechenden Klauseln, welche bisher den einer freisinnigen Entwickelung der Handelspolitik entgegenstehenden Bestrebungen im Zollverein eine agitatorische Grundlage gaben und Oesterreich eine Handhabe der Einwirkung auf die Politik des Zollvereins gewähren, ganz zu entfernen. Es wird bei der Frage der Genehmigung oder Verwerfung der Vertrag in seiner Gesammtheit ins Auge zu fassen und zu prüfen sein, ob die Verbesserung der handelspolitischen Grundlagen des Vertrages hinreicht, um die an die Zolleinigungs-Klausel sich knüpfenden Bedenken zum Schweigen zu bringen oder nicht. ¶ Die allgemeine Discussion in der Commission knüpfte vorzugsweise an den Art. 25 des Vertrages an, und es traten sich zwei Richtungen scharf gegenüber, von denen die eine vorzüglich aus dem Art. 25 und der Anbahnungsklausel im Eingange einen Grund hernahm, den Vertrag abzulehnen, während die andere die Aufnahme dieser Bestimmungen zwar bedauerte, aber ihnen nicht solches Gewicht beilegte, um daraus einen Grund für die Ablehnung des Vertrages herzuleiten. ¶ Darüber herrschte Einstimmigkeit, dass weder die Worte: „in der Absicht, die Allgemeine Deutsche Zolleinigung anzubahnen“ im Eingange des Vertrages, noch der Art. 25 für den Zollverein irgend eine positive Verpflichtung enthielten, sei es die Zolleinigung mit Oesterreich einzugehen, sei es auch nur seiner Handelspolitik aus Rücksicht auf diesen Vertrag irgend welche Schranken aufzuerlegen. Die einzige im Art. 25 gegebene Verpflichtung, darüber herrschte Einstimmigkeit, besteht darin, zu einer Verhandlung über die darin angegebenen Zwecke, sobald Oesterreich Propositionen macht, Commissarien zu ernennen, die sich indess darauf beschränken können, die etwaigen Propositionen als unannehmbar oder als noch nicht zeitgemäss zu bezeichnen. Ebenso war man darüber einig, dass Preussen aus Rücksicht auf seine handelspolitische und politische Stellung gar nicht daran denken könnte, in eine Zolleinigung mit Oesterreich einzutreten. Seitens der Gegner des Vertrages wurde indess geltend gemacht, nicht die Zolleinigung, für welche schon das Oesterreichische Tabaksmonopol ein voraussichtlich weit über die Vertragsperiode hinausreichendes Hinderniss sei, bilde die Gefahr, sondern die aus dem Vertrage thatsächlich hervorgehenden Hemmnisse für die Tarifreform im Zollvereine und für den Abschluss weiterer Handelsverträge, und gegen diese schütze die Autonomieklausel deshalb nicht, weil Preussen in allen diesen Beziehungen an die Zustimmung der übrigen Zollvereins-Regierungen gebunden

sei, unter denen eine den politischen Interessen Oesterreichs geneigte Partei sich immer finden und die Zolleinigungsklauseln als Vorwand benutzen werde, welcher sie der materiellen Begründung ihres Widerstandes gegen die handelspolitischen Bestrebungen Preussens überhebe. Was 1. die in dem Art. 25 enthaltene Verpflichtung zu commissarischen Verhandlungen angehe, so sei Oesterreich in die Lage versetzt, den Zeitpunkt, wo es dieselben verlange, sich selbst auszuwählen, und es werde ihn so wählen, dass er geeignet sei, die handelspolitischen Bestrebungen Preussens, beständen sie nun in einer autonomen Tarifreform, oder in neu abzuschliessenden Verträgen mit anderen Staaten, empfindlich zu durchkreuzen. Die Eventualität, dass Preussen einmal eine schwache Regierung haben könnte, welcher Oesterreich unter Benutzung der günstigen Situation ernstere Verpflichtungen abnöthige, wolle man zwar nicht als wahrscheinlich hinstellen, sie sei aber auch nicht ganz zu übersehen. Was 2. die Parteibestrebungen unter den übrigen Zollvereins-Regierungen und in der Zollvereins-Bevölkerung angehe, so seien dieselben bekanntlich politischer Natur und es sei nicht daran zu denken, dass dieselben, wie die Verhältnisse in Deutschland einmal liegen, im Laufe der Vertragsperiode etwa einschlafen würden. Diesen Bestrebungen gebe der Eingang und der Art. 25 des Vertrages einen Anhaltspunkt, um sich auf handelspolitischem Gebiete genau in derselben Weise geltend zu machen, wie man dies in der jüngsten Vergangenheit hinreichend kennen gelernt habe. Man wolle zu der nachtheiligen Einmischung der Politik in die handelspolitische Entwickelung des Zollvereins auch nicht einmal einen Vorwand, geschweige denn einen Anhaltspunkt in einem Vertrage geben, dem man seine Zustimmung zu ertheilen, oder auch zu versagen in der Lage sei. Bei der Verfassung des Zollvereins, wie sie einmal liege, sei es ein unleugbarer Nachtheil, wenn man den Gegnern einer nothwendigen Tarifreform oder eines wünschenswerthen Vertrages, in der Rücksicht auf die Zolleinigung einen Vorwand gebe, der sie der Nothwendigkeit überhebe, ihren Widerstand aus den Interessen des Zollvereins und der gesunden wirthschaftlichen Entwickelung der im Zollverein vereinigten Deutschen Bevölkerung zu begründen. Ueberdies müsse man auch davon ausgehen, dass in denjenigen Theilen der Bevölkerung, welche die Preussenfeindlichen Bestrebungen unterstützten, ein klares Verständniss für handelspolitische Fragen und ein Auseinanderhalten derselben von den politischen Bestrebungen nicht vorhanden sei. In diesen Kreisen würde die von der Agitation ausgenützte Phrase des Vertrages, obgleich sie ohne rechtlich bindenden Inhalt sei, vielfach, wie in den Kämpfen von 1862—1864, die Wirkung üben, dass sie ihr klares wirthschaftliches Interesse nicht erkennen oder wenigstens nicht geltend zu machen wagen würden. Die Phrase sei ein Agitationsmittel, und ein solches den Parteien, welche die Handelspolitik der Politik dienstbar machen, zu geben, liege um so weniger Veranlassung vor, als Oesterreich schon des Zollcartels wegen den Vertrag auch ohne diese Phrase eingegangen sein würde. Es habe den Anschein, als ob die Phrase aus politischen Rücksichten zugestanden worden sei, und einer Einmischung der Politik in die Handelspolitik müsse man auch in unserem Staate entschieden entgegentreten. Endlich 3. liege es in Oesterreichs Hand, seinen allgemeinen Tarif so

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einzurichten, dass der Tarif einen die Zollvereinsausfuhr ausschliesslich begünstigenden Tarif bilde. Hierdurch, sowie durch die einseitigen Beziehungen, welche der Veredelungsverkehr begünstige, würden im Zollverein materielle Interessen grossgezogen, welche dadurch, dass sie in den Genuss des Oesterreichischen Schutzsystems gesetzt würden, darauf angewiesen wären, den Oesterreichischen Bestrebungen im Zollvereine Vorschub zu leisten. Stände die Phrase des Art. 25, die der Zollvereinigungspolitik eine theoretische Anerkennung gewähre, allein, so würde es sich eher rechtfertigen lassen, davon abzusehen. Da es aber in Oesterreichs Hand liege, das alte Wechselverhältniss zwischen den Tarifen, mit der einzigen Ausnahme, dass Oesterreich auf dem Zollvereinsmarkte ausschliessliche Zollbegünstigungen nicht geniesse, wieder herzustellen, so werde die Phrase in Verbindung mit diesem thatsächlich zwischen dem Zollvereine und Oesterreich wieder eintretenden Verhältniss gefährlich. Die Aufgabe der Preussischen Politik sei es gewesen, der Oesterreichischen Zolleinigungspolitik jeden Boden und jeden Vorwand, ja jede Ehrenrettung zu versagen, damit Oesterreich gezwungen gewesen wäre, sich auf den Boden einer eignen, lediglich aus den eignen Interessen ihre Motive nehmenden Handelspolitik zu stellen. Dann würde es genau dasselbe Interesse an Tarifermässigungen im Zollvereine gehabt haben, wie jeder andere Staat, und es würde das Interesse aufgehört haben, sich in die inneren Angelegenheiten des Zollvereins zu mischen. Nicht einmal das sei wahr, dass die Concession der Zolleinigungs-Phrase geeignet sei, ein freundschaftliches Verhältniss zwischen Preussen und Oesterreich zu gründen oder zu fördern. Im Gegentheil, dass eine unklare Vertragsbestimmung dieser Art nicht geeignet sei, ein freundschaftliches Verhältniss zwischen den contrahirenden Theilen und innerhalb der Zollvereins-Staaten zu fördern, liege auf der Hand und sei durch die Erfahrung erwiesen. Jeder Theil suche jene Bestimmung nach seinem Interesse anders zu interpretiren, und darin liege eine Quelle des Zerwürfnisses. ¶ Von der Seite der Majorität, welche die Annahme des Vertrages befürwortete, wurde zugestanden, dass es allerdings wünschenswerth gewesen wäre, die Erwähnung der Zolleinigung in dem Vertrage ganz zu vermeiden. Allein da einmal das Vertragsverhältniss von 1853 bestanden habe, und Oesterreich noch nicht in der Lage gewesen sei, auf jede Bedingung eingehen zu müssen, so sei die in glücklicher Form erfolgte Abschwächung der Formeln des Vertrages von 1853 und namentlich die volle Wahrung der Autonomie, welche den Oesterreichischerseits aus dem Vertrage von 1853 gezogenen Schlussfolgerungen den Boden entziehe, ein Fortschritt auch in dieser Beziehung, dem die anderweitige Lösung der materiellen Fesseln des älteren Vertrages, die Beseitigung ausschliesslicher Zollbegünstigungen Oesterreichs, die Beseitigung der Befugniss Oesterreichs, im Fall der Ermässigung des allgemeinen Zollvereinstarifs seine Zwischenzollsätze zu erhöhen, die Herstellung eines Tarifs auf Oesterreichischer Seite, welcher die Natur eines exclusiven nicht an sich trage, zur Seite stehe. ¶ Die Bestrebungen, jede Erwähnung der Zolleinigung zu vermeiden, seien vor dem Vertragsabschlusse vollkommen berechtigt gewesen, jetzt aber stehe das Haus der Abgeordneten einem fertigen Vertragsacte gegenüber, und es habe sich nicht von einzelnen Wünschen, diese oder jene Be-

stimmung anders zu haben, sondern von der Ueberlegung der Folgen leiten zu lassen, welche im Fall der Ablehnung oder Annahme des Vertrages entstehen würden; dass die Streichung einer einzelnen Bestimmung der Ablehnung des Ganzen gleichstehe, sei selbstverständlich. ¶ Die einzige positive Verpflichtung, welche der Art. 25 enthalte, bestehe darin, Commissare zu einer Verhandlung zunächst über weitergehende Zollerleichterungen und möglichste Annäherung der beiderseitigen Tarife, und demnächst über die Frage der Allgemeinen Deutschen Zolleinigung (nicht die Zolleinigung mit Gesammt-Oesterreich) zu ernennen, wenn Oesterreich Propositionen mache. Diese Verpflichtung sei ohne ernste Gefahren, da, auch wenn Oesterreich die Verhandlungen zu unbequemer Stunde fordere, dieselben durch eine ablehnende Haltung des diesseitigen Commissars rasch zu Ende geführt werden könnten. ¶ Im Uebrigen werde von der Gegenseite selbst zugestanden, dass es sich nur um Beseitigung eines Vorwandes, eines Agitationsmittels handle, und man werde doch zugestehen müssen, dass die Grösse des Mittels — Ablehnung des Vertrages — zu seinem Zweck — Beseitigung eines Vorwandes — in keinem Verhältniss stehe. Uebrigens verfehle dieses Mittel, so tiefgreifend es scheine, seinen Zweck. Denn wenn der Vertrag diese Klausel nicht enthielte, oder wenn ein Vertrag gar nicht zu Stande käme, so würde es den Regierungen im Zollverein und der Agitation, welche auf Oesterreichischer Seite stände, an Vorwänden gar nicht fehlen, *wie ja der Art. 19 der Bundesacte eben so oft als Vorwand benutzt worden sei,* wie der Art. 25 des Februar-Vertrages. Die Stellung Preussens im Zollvereine und zu Oesterreich sei eben eine Situation, welche viele Weiterungen und Ungelegenheiten schaffe, welche aber durch Streichung einer nichtssagenden Vertragsklausel nicht geändert werde. ¶ Wohl aber sei der vorliegende Vertrag durch den materiellen Inhalt seiner Bestimmungen im Stande, die Situation zu bessern, und dies sei der hauptsächlichste Grund, weshalb man sich für die Annahme desselben verwende. Der Vertrag sei ein Mittel, die Handelspolitik Oesterreichs auf die Bahn einer liberalen Entwickelung zu bringen, sie von der Herrschaft politischer Rücksichten zu befreien, er helfe der Oesterreichischen Regierung in ihren Tarifreform-Bestrebungen gegen die im eigenen Lande bis jetzt übermächtige Schutzzollpartei. Allerdings lege der Vertrag der Oesterreichischen Regierung nicht die Verpflichtung auf, den Tarif zu verallgemeinern. Aber es sei auch nicht abzusehen, wie eine solche Verpflichtung in den Vertrag hätte Aufnahme finden können. Dagegen liege es in der offen ausgesprochenen Absicht der Oesterreichischen Regierung, den Tarif zu verallgemeinern. Und was die Hauptsache sei, der Tarif sei so eingerichtet, dass er verallgemeinert werden könne und in seiner Verallgemeinerung einen mässigen Schritt im Sinne grösserer Handelsfreiheit ausdrücke, während der Zwischenzolltarif des Februarvertrages vermöge seiner Natur die Verallgemeinerung ausgeschlossen habe. Oesterreich werde schon aus politischen Gründen nicht umhin können, auch mit anderen Staaten, namentlich Frankreich, demnächst Handelsverträge abzuschliessen, um die handelspolitische und politische Isolirung zu vermeiden. Thue es dies, so fehle ihm jeder, etwa aus der Natur des Tarifs A. herzunehmende Vorwand, die Anwendung dieses Tarifs auf die Erzeugnisse der anderen Na-

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tionen zu versagen. Die Verallgemeinerung des Tarifs A. sei also das Mindeste, was unter diesen Umständen eintreten müsse, ein Mehr, was zu erwarten sei, bestehe in weiteren Ermässigungen des Oesterreichischen Tarifs, die dann auch dem Zollverein zu Gute kämen. Der Vertrag repräsentire den ersten Schritt Oesterreichs zum Eintritt in das System der westeuropäischen Verträge, das erste Auftreten ernsthafter Tarifreform-Bestrebungen im Sinne grösserer Handelsfreiheit. Hieran, gelte es, Oesterreich festzuhalten. Träte Oesterreich dann in eine neue Entwickelung seiner Handelspolitik ein, so würde auch seine Stellung zum Zollverein eine andere, und die frühere von politischen Absichten dictirte Zolleinigungspolitik verliere in den Oesterreichischen Interessen selbst den Boden. Lehne man den vorliegenden Vertrag ab, so stelle man diese wünschenswerthe Entwickelung, die Aussicht auf günstige Veränderung der Situation, ins Ungewisse, und beseitige weder die Vorwände, noch die politischen Bestrebungen gewisser Zollvereins-Staaten im Sinne Oesterreichs. ¶ Im Uebrigen möge man bedenken, dass es sich um einen Vertrag des ganzen Zollvereins mit Oesterreich handle; wenn man sich diesem gegenüber auf den Standpunkt des ausschliesslich Preussischen-Interesses stelle, so werde man die Stellung Preussens im Zollverein eher ungünstiger machen und Manches in Frage stellen, was sich bei besserem Einvernehmen in der nächsten Zollvereinsperiode noch erreichen liesse. ¶ Von der Seite der Gegner wurde hierauf erwidert, dass der Tarif A. ein so mässiger Schritt Oesterreichs im Sinne der Befreiung des Verkehrs sei, dass man demselben eine solche principielle Bedeutung nicht beilegen könne. Ueberdies habe Oesterreich freie Hand, denselben zu einem exclusiven zu machen. Endlich könne es nicht die Aufgabe des Zollvereins sein, unter thatsächlicher Gefährdung seiner Autonomie die Bestrebungen einer etwaigen Freihandelspartei in Oesterreich zu stützen. Seine erste Aufgabe sei, sich die Wege zu weiteren Tarifreformen und Handelsverträgen nach Möglichkeit zu sichern, und dieser Aufgabe entspreche es nicht, denjenigen, welche die Ausübung der Autonomie des Zollvereins hemmen wollten, Vorwände zu unterbreiten. ¶ Von Seiten der Vertreter der Staatsregierung wurde im Allgemeinen auf die in der Denkschrift der Königlichen Staatsregierung enthaltene Motivirung Bezug genommen und im Anschluss daran im Wesentlichen bemerkt, dass der zweite Absatz dieses Artikels (25) auf den Wunsch der Kaiserlich Oesterreichischen Regierung aufgenommen sei, und dass Oesterreich darauf seinerseits einen besonderen Werth gelegt habe. Es wurde darauf hingewiesen, dass der Unterschied zwischen der vorliegenden Bestimmung und der im Vertrage von 1853 enthaltenen Abrede einleuchtend sei; in der vorliegenden Bestimmung sei keine weitere Verpflichtung eingegangen, als die: dass man sich auf Einladung des anderen Theils nicht entziehen wolle, die Frage zu discutiren; werde eine Discussion darüber stattfinden, dann würden diesseits lediglich die volkswirthschaftlichen und finanziellen Interessen zur Richtschnur genommen werden; unter Festhaltung dieses Gesichtspunktes werde man das Ergebniss der Discussion mit Ruhe erwarten können. Wenn von einigen Seiten darauf hingedeutet worden, dass die Abrede im Vertrage von 1853 den ganzen Anhalt zu der Agitation geboten habe, welche im Laufe der letzten Jahre und namentlich aus Anlass der Verträge mit

Frankreich stattgefunden, so könne dies nicht zugegeben werden. Jedes etwaige Bedenken auch in dieser Beziehung sei aber durch den letzten Absatz, welcher ausdrücklich die Autonomie in der Zoll- und Handelsgesetzgebung wahre, mit Sicherheit beseitigt. Endlich sei nach dem Gange der mit Oesterreich stattgehabten Verhandlung zu erwarten, dass Oesterreich seinen Tarif allgemein, gegenüber allen Nationen, einführen werde, und es wären somit auch die Bedenken, welche in dieser Hinsicht aus einer besonderen Bevorzugung des Zollvereins geschöpft werden, als erledigt zu betrachten. ¶ Schliesslich einigte man sich zur Anerkennung des oben erwähnten Gesichtspunktes für die Berathung, dass es bei der Frage der Genehmigung oder Verwerfung des Vertrages darauf ankomme, den Vertrag in seiner Gesammtheit ins Auge zu fassen und zu prüfen, ob die Verbesserung der handelspolitischen Grundlagen des Vertrages, gegenüber dem Februar-Vertrage, hinreiche, um von den an die Zolleinigungsklausel sich knüpfenden Bedenken abzusehen, oder nicht. ¶ Unter diesem Gesichtspunkte traten die vereinigten Commissionen zunächst in die Special-Berathung des Vertrages selbst ein, um demnächst den Eingang zu berathen und endlich über den ganzen Vertrag abzustimmen.

No. 1985. Preussen, 16. Mai 1865.

No. 1986.

BAYERN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Vorschläge zur Lösung der Zollvereinskrisis. —

No. 1986. Bayern, 31. Dec. 1862.

Hochgeborener Herr Graf! Gleichzeitig mit Ihrem Bericht vom 14. v. M. habe ich durch Hrn. Grafen v. Perponcher Kenntniss einer Depesche des Hrn. Ministerpräsidenten v. Bismarck vom 12. v. M.*) erhalten, welche eine Rückantwort auf meine Depesche vom 23. Septbr.**) d. J. bildet und von welcher ich eine Abschrift hier anfüge. Nach Inhalt derselben wünscht die Königlich Preussische Regierung eine nähere Aeusserung über den in der erwähnten frühern diesseitigen Depesche enthaltenen Ausspruch, dass eine befriedigende Lösung der gegenwärtigen Krisis von Bayrischer Seite auf das lebhafteste gewünscht werde und dass eine Verständigung auch wohl ohne besondere Schwierigkeiten herbeigeführt werden könne. Schon in meinem Schreiben vom 23. Sept. d. J. habe ich die Voraussetzungen anzudeuten gesucht, unter welchen die Bayrische Regierung die Erreichung einer Verständigung für möglich erachtet, und ich ergreife gern den dargebotenen Anlass, um dem Wunsche des Hrn. v. Bismarck entsprechend die Ansichten der Königlich Bayrischen Regierung nochmals näher darzulegen. Da die bevorstehende Generalconferenz als der geeignetste vertragsmässige Weg zu einer gemeinsamen Erörterung mit der Hauptfrage in unmittelbarer Verbindung steht, so glaube ich auch die von der Bayrischen Regierung bei deren Einleitung ins Auge gefassten Rücksichten näher erläutern zu sollen. ¶ Das Bedenkliche der gegenwärtigen Krisis und die gemeinsame Gefahr, die sie für alle Mitglieder des Zollvereins in sich schliesst,

*) No. 460.
**) No. 455.

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wird wohl von allen Seiten in gleicher Weise erkannt und berücksichtigt werden. Ebenso wird wohl auf keiner Seite in Abrede gestellt werden wollen, dass eine Beseitigung derselben weder durch eine Fortsetzung der bisherigen Discussion noch auch durch blosse Zurückweisung der entgegenstehenden Ansichten und Anträge, sondern nur durch offene Rückkehr zu einem allseitig anzuerkennenden Standpunkte, auf welchem sich alle Theile mit gleichem Recht und gleicher Freiheit zu bewegen vermögen, erreicht werden kann. Dieser Standpunkt ist nach diesseitiger Ansicht der des Rechts, und eine gemeinsame Erörterung auf dieser Grundlage vermag allein die Hoffnung einer allmäligen Annäherung der differirenden Ansichten zu rechtfertigen. Die Königlich Bayrische Regierung hat schon in früheren Erklärungen diese ihre Ansicht angedeutet, und der weitere Verlauf der Sache hat sie in ihrer Auffassung nur zu bestärken vermocht. Wenn die Vereinsregierungen bestrebt sein wollen, sich streng an die Bestimmungen der Vereinsverträge zu halten und, sowohl in der Geltendmachung eigener als in der Beurtheilung fremder Ansprüche, sich nur auf die Grenzen des Rechts zu beschränken, so wird die Beurtheilung fremder wie der eigenen Interessen und sonstigen Rücksichten bald eine versöhnlichere werden, und es kann dieses nur zu einer Annäherung und Ausgleichung führen. Es wird dann auch für keinen Theil mehr ein Motiv bestehen, gemeinsame Erörterungen zurückzuweisen, vielmehr jedem Theil gleichmässig daran liegen, durch gemeinschaftliche Verhandlungen den gesammten Stand der Frage aufzuklären und alle Nebenrücksichten aus derselben zu entfernen. Gestützt auf diese Voraussetzung habe ich in meiner Depesche vom 23. Sept. l. J. die Rücksichtnahme auf den Februarvertrag mit Oesterreich und eine angemessene Aenderung des proponirten Vertrags mit Frankreich als diejenige Grundlage bezeichnet, auf welcher eine Verständigung erzielt werden könne. Diese Andeutung scheint jedoch nicht in dem Sinne aufgefasst worden zu sein, in welchem sie gemeint war, denn sonst würde schwerlich der unseres Erachtens der Sachlage nicht angemessene Ausspruch wiederholt worden sein, dass die Königlich Preussische Regierung die Verweigerung der Zustimmung zu den Verträgen mit Frankreich als den Ausdruck des Willens der betreffenden Regierungen betrachte, den Zollverein mit Preussen über die Dauer der gegenwärtigen Vertragsperiode nicht fortzusetzen. Dieser Ausspruch ist in der Depesche des Hrn. v. Bismarck vom 12. Nov. d. J. zunächst zwar nur gegen Württemberg und Grossherzogthum Hessen wiederholt, er ist es jedoch in der Wesenheit gleichmässig gegen die Königlich Bayrische Regierung, da diese den Handelsvertrag mit Frankreich in gleicher Weise beurtheilt und abgelehnt hat, wie die vorgenannten beiden Regierungen, und mit denselben hierin auch jetzt noch vollkommen übereinstimmt. Nicht minder ist dieser Ausspruch gegen alle diejenigen Regierungen gerichtet, welche dem besagten Handelsvertrage in seiner dermaligen Gestalt nicht unbedingt beistimmen zu können glauben, und er bildet seiner Form nach eine gegen die freie Entschliessung dieser Regierungen gerichtete und den Principien des Zollvereins widerstrebende Drohung. Deshalb hielt die Bayrische Regierung sich für ebenso berechtigt wie verpflichtet, schon früher auszusprechen, dass sie eine solche Folgerung aus der ihrerseits erfolgten Ablehnung des Französischen Vertrags nicht anzuerken-

nen vermöge, und ich glaube diese Verwahrung hier wiederholen zu sollen. Wenn die Königlich Preussische Regierung die Weigerung Bayerns und der übrigen Regierungen, den fraglichen Verträgen beizustimmen, als das auffasst, was sie wirklich ist, nämlich als die Geltendmachung eines unzweifelhaften, durch die Vereinsverträge garantirten Rechts, so wird sie sich durch dieselbe weder verletzt, noch weniger aber zu dem Bestreben hingeleitet finden, der Ueberzeugung ihrer Mitverbündeten durch den obengedachten folgenschweren Ausspruch Zwang anthun zu wollen. Sie wird dann ebenso wenig die Verweigerung dieser Zustimmung oder die daraus hervorgehenden Consequenzen als ein Motiv betrachten können, sich einer eingehenden gemeinsamen Erörterung der Sachlage zu entziehen. In dieser Voraussetzung hat die Bayrische Regierung geglaubt, dass es allen Vereinsregierungen nur erwünscht sein könne, die wichtige Frage über die zweckmässige Entwickelung und Ausbildung des Handels- und Zollsystems des Vereins, welche der Art. 34 des Vertrags vom 4. April 1853 ausdrücklich der Thätigkeit der regelmässigen Generalconferenz überweist, bei der bevorstehenden Conferenz in den Kreis der Berathung zu ziehen. Aus diesem Grunde hat sie bei der Einladung zu dieser Conferenz die Oesterreichischen Vorschläge als Berathungsgegenstand namentlich in Vorschlag gebracht, und sie wird diesen Antrag auch fernerhin aufrecht erhalten. Sie erachtet es hierbei als eine vertragsmässige Pflicht aller Vereinsregierungen, sich einer gemeinsamen Erörterung solcher wichtiger Fragen, welche die Vereinsinteressen so wesentlich berühren, nicht zu entziehen, und ist ihrerseits ebenso bereit, auf analoge Fragen, wie allenfalls auf Tarifsmodificationen, auf eine Erneuerung der Vereinsverträge, sowie eventuell auf eine Wiederaufnahme der Verhandlungen mit Frankreich einzugehen. Sie erachtet dies nicht nur für unverfänglich, weil eine solche Erörterung sowie der Austausch der Ansichten hierüber unter den Vereinsregierungen noch keineswegs eine Zustimmung zu ferneren Verhandlungen oder deren möglichen Resultaten involvirt, sondern auch für nothwendig, weil nur durch solche Erörterungen einseitigen Auffassungen und daraus entstehenden Missverständnissen vorgebeugt werden kann. ¶ Dies sind im Wesentichen die Erwägungen, welche die Bayrische Regierung sowohl bei der von Hrn. v. Bismarck hervorgehobenen Andeutung in der Depesche vom 23. Sept. d. J., worüber eine nähere Erklärung gewünscht wird, als auch bei der Einberufung der XV. Generalconferenz und der Bezeichnung der Oesterreichischen Vorschläge als wesentlichen Berathungsgegenstandes geleitet haben, und die bisherigen Erklärungen einzelner Vereinsregierungen hierüber lassen erkennen, dass sie von analogen Ansichten geleitet werden. Was insbesondere die Königlich Württembergische und die Grossherzoglich Hessische Regierung betrifft, deren Uebereinstimmung mit der Bayrischen Regierung theils durch die der Ablehnung des Vertrags vorausgegangene gemeinsame Berathung, theils durch die gleichartigen Motive und Form des gefassten Beschlusses dargethan ist, so haben dieselben offen kund gegeben, dass sie in gleicher Weise und ebenso lebhaft den Wunsch einer Verständigung theilen als wir, und zu Massregeln, die zu einer solchen führen können, gern bereit sind. Auch die Königlich Preussische Regierung könnte sich nach diesseitiger Ansicht, ohne ihrem Standpunkte etwas zu

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vergeben, einer solchen Auffassung anschliessen, da sie denn doch schwerlich gemeint sein wird, jeden Vorschlag zu einer angemessenen Verständigung, sowie jede Erörterung der Sachlage für immer zurückzuweisen. Ich ersuche daher Ew. Hochgeboren, diese Bemerkungen Sr. Exc. Hrn. v. Bismarck, seinem ausdrücklichen Wunsche entsprechend, abschriftlich mitzutheilen. Empfangen Sie etc. etc.

v. Schrenck.

No. 1987.

PREUSSEN. — Min. d. Ausw. an den Kön. Ges. in München. — Antwort auf die Bayer. Depesche vom 31. Dec. 1862. —

Berlin, den 27. Januar 1863.

No. 1987. Preussen, 27. Jan. 1863.

Graf v. Montgelas hat mir die Depesche des Freiherrn v. Schrenck vom 31. v. M. und J. in Betreff der mit Frankreich abgeschlossenen Verträge mitgetheilt. Ich habe daraus ersehen, dass ich mich in der Voraussetzung getäuscht habe, es sei von der Königl. Bayrischen Regierung eine, mit unseren Verpflichtungen gegen Frankreich vereinbare Verständigung in Aussicht genommen. Der Königlich Bayrische Herr Minister spricht im Gegentheil wiederholt die Ablehnung des Handelsvertrages mit Frankreich aus und fügt hinzu, dass, wenn Preussen die Verweigerung der Zustimmung als den Ausdruck des Willens betrachte, den Zollverein über die Dauer der gegenwärtigen Vertragsperiode nicht fortzusetzen, dieser Ausspruch auch als gegen Bayern gerichtet anzusehen sei. Diese Auffassung kann ich bei der nunmehrigen Lage der Sache nur bestätigen. ¶ Es scheint mir hiernach auch nicht erforderlich, auf die in der Depesche des Freiherrn v. Schrenck enthaltenen Ausführungen im Einzelnen nochmals einzugehen; die gegenseitigen Ansichten sind zur Genüge ausgetauscht. Nur kann ich nicht umhin, jede Andeutung, als ob Preussen es unterlassen habe, sich strenge an die Bestimmungen der Vereinsverträge zu halten und bei Geltendmachung eigener oder bei Beurtheilung fremder Ansprüche auf die Grenzen des Rechts zu beschränken, mit Entschiedenheit zurückzuweisen. Preussen hat, so lange der Zollverein besteht, weder das Eine noch das Andere unterlassen und auch im vorliegenden Falle, nach stattgehabter Berathung über Einleitung und Fortgang der Verhandlung, die freie Zustimmung der mit ihm zum Vereine verbundenen Regierungen beantragt. Es ist fern davon, die rechtliche Befugniss Bayerns zu bestreiten, diesen Vertrag, so lange die Vereinsverträge in Kraft stehen, abzulehnen und, nach Ablauf dieser Verträge, über die anderweite Regelung seiner materiellen Interessen nach freiem Ermessen Beschluss zu fassen. Es nimmt aber auch für sich die Befugniss in Anspruch, alsdann den von ihm eingeschlagenen für richtig und nothwendig erkannten Weg zu verfolgen. ¶ Ew. etc. ersuche ich ergebenst, sich hiernach gegen den Herrn Freiherrn v. Schrenck gefälligst zu äussern und demselben Abschrift gegenwärtiger Depesche mitzutheilen.

v. Bismarck.

No. 1988.

BAYERN. — Min. d. Ausw. an die Deutschen Zollvereins-Regierungen. — Empfehlung der Oesterr. Propositionen vom 10. Juli 1862 für die bevorstehende General-Zollconferenz. —

München, 18. Februar 1863.

No. 1988. Bayern, 18. Febr. 1863.

Die Königlich Bayrische Regierung hat sowohl in ihrer an sämmtliche Zollvereinsregierungen gerichteten Einladung zur diesjährigen Generalconferenz als auch in der jüngst erfolgten Mittheilung ihrer Anträge zu dieser Conferenz die bekannten Oesterreichischen Propositionen vom 10. Juli v. J.*) bezüglich der Fortsetzung und Erweiterung des Vertrags vom 19. Febr. 1853 als einen Gegenstand der Berathung erwähnt. Sowohl die Wichtigkeit dieser Frage an und für sich als auch insbesondere der Umstand, dass über die Art und Weise dieser Berathung und deren Aufgabe Zweifel angeregt worden sind, veranlasst die Königliche Bayrische Regierung, sich ausführlich und mit vollständiger Darlegung ihrer mit diesem Antrage verbundenen Absichten hierüber gegen sämmtliche Vereinsregierungen auszusprechen. ¶ Die Königlich Bayrische Regierung hat schon in einigen frühern zur Oeffentlichkeit gelangten Erklärungen angedeutet, dass sie die allmähliche Ausdehnung des Zollvereins auf alle Deutsche Staaten als eine in der Bundesacte begründete Aufgabe betrachte, und ebenso in dem Vertrage vom 19. Febr. 1853 und in der in demselben niedergelegten Erklärung wegen Ausdehnung des Vereins auf Oesterreich eine moralische wie positive Verpflichtung erblicke, eine nähere Verbindung des Zollvereins mit Oesterreich zu fördern und zu erleichtern. Von diesem Standpunkte aus konnte daher die Bayrische Regierung die Oesterreichischen Propositionen vom 10. Juli v. J. nur als den Versuch einer consequenten Entwickelung des Vertrags vom 19. Febr. 1853 begrüssen und eine nähere Prüfung derselben von Seiten der Vereinsregierungen wünschen. Diese Prüfung konnte damals nicht wohl eintreten, weil von Seiten der Königl. Preussischen Regierung jedes Eingehen auf die Oesterreichischen Anträge insolange verweigert wurde, als die allseitige Annahme des projectirten Vertrags mit Frankreich noch in Frage stand. Bayrischerseits konnte nach der obenerwähnten Grundansicht diese Einrede als eine rechtsgültige nicht betrachtet, vielmehr musste angenommen werden, dass gerade in der Behinderung und Erschwerung der nähern Verbindung des Zollvereins mit Oesterreich einer der entscheidendsten Rechtsgründe gegen den Vertrag mit Frankreich gelegen sei. Seitdem ist nun auch der thatsächliche Grund dieser Einrede durch die erfolgte Ablehnung des Beitritts zu dem projectirten Vertrag mit Frankreich von Seiten mehrerer Vereinsregierungen beseitigt worden. Es handelt sich sonach dermalen auf Seiten des Zollvereins um die sorgfältige Erwägung der Frage, ob die Oesterreichischen Propositionen vom 10. Juli v. J. den im Vertrag vom 19. Febr. 1853 enthaltenen Voraussetzungen entsprechen, ob sie im allgemeinen mit den Interessen des Vereins vereinbarlich sind und ob daher überhaupt oder unter welchen Modificationen auf Verhandlungen mit der Oesterreichischen Regierung eingegangen

*) No. 430.

No. 1988. Bayern, 18. Febr. 1863.

werden könne und in welcher Art und Weise dieselben geführt werden sollen. In letzterer Beziehung war bisher bekanntlich das unmittelbare Benehmen mit Oesterreich von Seiten des Vereins den Regierungen von Preussen, Sachsen und Bayern übertragen worden; nach der Stellung, welche die Preussische Regierung jedoch in vorliegender Frage eingenommen hat, erscheint es zweifelhaft, ob dieselbe sich dieser Aufgabe fernerhin zu unterziehen geneigt sein werde. ¶ Wenn es sich im vorliegenden Falle blos um die Erweiterung und fernere Entwickelung des Vertrags vom 19. Febr. 1853 ohne alle Verbindung mit sonstigen Beziehungen handeln würde, so wäre die Frage allerdings einfacher und die Königlich Bayrische Regierung könnte sich der beruhigenden Ueberzeugung hingeben, dass sämmtliche Vereinsregierungen in der Hauptsache übereinstimmen, und differente Ansichten wohl nur in Bezug auf einzelne Punkte oder auf das Detail der Verhandlungen sich geltend machen würden. Leider sind jedoch im Laufe des verflossenen Jahres Verwickelungen eingetreten, welche so tief in die Grundgesetze und den Bestand des Zollvereins eingreifen, dass dadurch die vorliegende Frage zugleich zu einer Frage der ferneren Existenz und Gestaltung des Vereins wird. So sehr die Bayrische Regierung bisher auch bemüht war, die Gegensätze zu mildern und eine Ausgleichung derselben herbeizuführen, so haben ihre Bestrebungen gleichwohl nur einen sehr geringen Erfolg gehabt, und sie kann sich nicht verhehlen, dass eine längere Hinausschiebung der Erörterung keine Aussicht auf eine bessere Gestaltung der Frage darbiete, vielmehr für alle Vereinsregierungen eine dringende Veranlassung vorliege, die sich darbietenden Eventualitäten schon jetzt in ernstliche Erwägung zu ziehen und sich bezüglich der Gefahren, welche die fernere Entwickelung des Deutschen Zollvereins bedrohen, keinen Illusionen zu überlassen. Dadurch, dass die Königlich Preussische Regierung zu wiederholten Malen und in verschiedenen Formen ihre Absicht erklärt hat, die dermaligen Zollvereinsverträge nach ihrem bevorstehenden Ablaufe nicht auf der bisherigen, sondern nur auf einer das dermalige Vereinssystem umgestaltenden Grundlage erneuern zu wollen, welche Erklärung ohne Zweifel einer eventuellen Kündigung der Vereinsverträge gleich zu achten ist, werden sämmtliche Vereinsregierungen in die Nothwendigkeit versetzt, diese Eventualität sofort ins Auge zu fassen und ihre Ansicht hierüber festzustellen. ¶ Die Bayerische Regierung kann hierbei nach ihren bisher festgehaltenen Grundsätzen nicht im mindesten in Zweifel gerathen. So wie sie bisher dem Zollverein und seinen wesentlichen Maximen eifrig und aufrichtig zugethan war, so ist sie auch jetzt bereit, denselben auf seiner bisherigen Grundlage zu erneuern, hierüber verbindliche Verhandlungen einzugehen, ja selbst schon eine desfallsige Vereinbarung abzuschliessen. Ebenso bereit ist sie, auf Verhandlungen einzugehen, welche einzelne Modificationen des Vereinstarifs oder andere Bestimmungen zum Zwecke haben, ohne das ganze bisherige Vereinssystem oder wesentliche Vereinsinteressen und Rechte zu gefährden. Nicht minder wünscht sie eine Erneuerung und Ausbildung des Vertrags vom 19. Febr. 1853 mit Oesterreich, um eine nähere handelspolitische Verbindung und allmähliche Zolleinigung mit diesem Staate herbeizuführen. Hoffentlich werden die meisten Vereinsregierungen mit diesem Bestreben der Bayerischen Regierung übereinstimmen, und es dürfte durch die dermalige be-

denkliche Lage hinreichende Veranlassung gegeben sein, die Uebereinstimmung hierin zu constatiren und dadurch die gegründete Aussicht zu gewähren, dass der Zollverein in seinem Wesen und seinen Grundprincipien werde erhalten werden. ¶ Diese Betrachtungen und Absichten haben die Bayerische Regierung geleitet, als sie der Oesterreichischen Propositionen als eines Gegenstandes der Berathung für die bevorstehende Generalconferenz erwähnte, und sie fühlt sich gedrungen, an die Vereinsregierungen das Ersuchen zu richten, diese Frage im gleichen Sinne in Erwägung zu ziehen und ihre Bevollmächtigten hiernach mit Instruction zu versehen. Die Königliche Gesandtschaft wird beauftragt, die hiernach geeignete Mittheilung sofort an die Regierung zu richten.

No. 1988. Bayern, 18. Febr. 1863.

v. Schrenck.

No. 1989.

ÖSTERREICH. — Min. d. Ausw. an den K. K. Ges. in München. — Den Oesterr. Standpunkt in der Zollvereinsangelegenheit betr. —

Wien, 26. März 1863.

No. 1989. Oesterreich, 26. März 1863.

Durch die so eben zu München erfolgte Eröffnung der Generalconferenz des Zollvereins finden wir uns veranlasst, die gefällige Vermittlung der Königlich Bayerischen Regierung zu dem im Nachfolgenden bezeichneten Zweck in Anspruch zu nehmen. ¶ Es hat uns nicht unbekannt bleiben können, dass zwischen den Regierungen des Zollvereins eine Meinungsverschiedenheit darüber entstanden ist: ob es der erwähnten Conferenz zustehe, die Vorschläge Oesterreichs wegen Gründung eines Deutsch-Oesterreichischen Zollbündnisses in den Kreis ihrer Berathungen zu ziehen. Gestützt auf den Art. 34 des Zollvereins-Vertrages — welcher Artikel die Competenz der jährlichen Zollvereins-Versammlungen regelt und diese Competenz ausdrücklich ausdehnt auf: „Verhandlungen über Abänderungen des Zollgesetzes, der Zollordnung, des Zolltarifes und der Verwaltungs-Organisationen, welche von einem der contrahirenden Staaten in Antrag gebracht werden, überhaupt über die zweckmässige Entwicklung und Ausbildung des gemeinsamen Handels- und Zollsystems" — gestützt auf diese Vertragsbestimmung, sind viele Regierungen des Zollvereins der Ansicht, dass die Berathung über die Vorfrage: ob und in welcher Weise der Verein in die von Oesterreich angebotene Unterhandlung einzutreten habe, recht eigentlich innerhalb des Berufes der Generalconferenz liege. Denn die Vorschläge Oesterreichs sind auf Revision des Zolltarifs, sie sind auf Entwickelung und Ausbildung des Deutschen Handels- und Zollsystems gerichtet. Von dieser Ansicht ist insbesondere auch die K. Bayerische Regierung geleitet, von welcher die Einladungen zur diesjährigen Vereinsconferenz ausgegangen sind. Sie hat daher in ihre für diese Versammlung bestimmten Anträge die Berathung der Oesterreichischen Propositionen vom 10. Juli v. J. aufgenommen. Einige andere Zollvereinsstaaten dagegen glauben die Zuständigkeit der Generalconferenz in dieser Hinsicht beanstanden zu können. Nach ihrer Auffassung wäre die erwähnte Bestimmung des Artikels 34 des Zollvereins-Vertrages nur von Massregeln zur Entwickelung und Ausbildung des

No. 1989. Oesterreich, 26. März 1863. Handels- und Zollsystems im Innern des Zollvereins zu verstehen, und die Einleitungen zu Unterhandlungen mit Staaten, die dem Zollverein nicht angehören, müssten in einer anderen Form, nämlich durch die im Separatartikel 19 (zu Art. 38 des offenen Vertrages) vorgesehene Geschäftsführung der Grenzstaaten, also im vorliegenden Falle der Regierungen von Preussen, Bayern und Sachsen, getroffen werden. ¶ Wenn wir über diese zwischen den Zollvereins-Regierungen schwebende Frage der formellen Competenz eine Stimme abzugeben hätten, so würden wir hervorheben, wie uns der klare Wortlaut des Artikels 34 entschieden für die erstere Ansicht zu sprechen scheine. Wir würden auseinandersetzen, wie das Verhältniss dieses Artikels zum Specialartikel 19 einfach und natürlich darin zu bestehen scheine, dass, in Fällen, wo Aenderungen im System des Zollvereins durch Verträge mit dem Deutschen Vereins-Auslande herbeigeführt werden sollen, die Berathung und Schlussfassung über diese Aenderungen regelmässig der Vereinsconferenz, die Führung der Unterhandlung selbst aber den Grenzstaaten anheimfalle. Wir könnten uns hierfür auf frühere Vorgänge berufen, z. B. darauf, dass im Jahre 1858 die für die damaligen Unterhandlungen mit Oesterreich entscheidend gewordene Frage der Aufhebung der Durchfuhrzölle vor die zu Hannover tagende Generalconferenz gebracht wurde. Allein es steht uns über diesen die innere Verfassung des Zollvereins angehenden formellen Punkt kein giltiges Urtheil zu, und wir haben es ganz den Vereinsstaaten zu überlassen, sich über die zweckmässigste und der Organisation des Zollvereins entsprechendste Form der Unterhandlung mit Oesterreich unter sich zu einigen. ¶ Je gewisser wir aber anzuerkennen haben, dass wir in dieser Beziehung des innerhalb des Zollvereins zu fassenden Beschlusses gewärtig sein müssen, desto weniger können wir den Anlass des Zusammentrittes der Münchener Generalconferenz vorübergehen lassen, ohne bei den hohen Regierungen des Zollvereins den Antrag zu erneuern, dass überhaupt in irgend welcher Form nunmehr endlich zur Eröffnung der Unterhandlung über unsere Vorschläge vom 10. Juli v. J. geschritten werden möge. ¶ Bereits in den Erlässen an den Kaiserlichen Gesandten in Berlin vom 26. Juli und 21. August v. J.*) haben wir die Einleitung der auf Grund des Art. 25 des Handels- und Zollvertrages vom 19. Februar 1853 zu pflegenden Unterhandlungen förmlich in Anspruch genommen und die Proposition vom 10. Juli als unser Programm für diese Unterhandlungen bezeichnet. Wir wiederholen diese Erklärung nunmehr gegenüber den zu gemeinsamer Berathung versammelten Zollvereins-Regierungen. Dass uns hierbei ein bestimmtes vertragsmässiges Recht zur Seite stehe, dürfen wir bereits als anerkannt und in der allgemeinen Ueberzeugung feststehend betrachten. Auch die Königlich Preussische Regierung hat uns in dem Erlass des Grafen v. Bernstorff an den K. Gesandten in Wien vom 6. August v. J.**) die Versicherung ertheilt: dass sie weit entfernt sei, die im Artikel 25 des Vertrages vom 19. Februar 1853 eingegangene gegenseitige Verpflichtung, aus dem Grunde, weil sie zu der für ihre Ausführung bestimmten Zeit nicht in Anspruch genommen wor-

*) No. 432 und 444.

**) No. 441.

den ist, als erloschen zu betrachten. Die zwölfjährige Vertragsperiode naht sich bereits ihrem Ende, und es liegt am Tage, dass die mehr als je von einem endlichen Abschluss entfernten Unterhandlungen mit einer dritten Macht kein rechtgiltiges Motiv bilden können, uns die Erfüllung eines Verlangens, zu welchem der bestehende Vertrag uns berechtigt, noch länger zu versagen. Und so wie der Rechtspunkt feststeht, so lässt nach unserer innigen Ueberzeugung auch das allseitige Interesse sämmtlicher Betheiligten nicht weniger klar und bestimmt den Eintritt des Zollvereins in die Unterhandlung mit uns als das nächste Erforderniss der Lage erscheinen. Im Verlauf des Streites haben sich die Meinungen unverkennbar zu klären begonnen, und die Kaiserliche Regierung darf vielleicht heute schon auf Zustimmung im weitesten Kreise hoffen, wenn sie ausspricht, dass in einer unbefangenen und bundesfreundlich entgegenkommenden Prüfung ihrer Vorschläge das sich von selbst darbietende Mittel gegeben sei, den Fortbestand des Zollvereins und seine engere Verbindung mit Oesterreich sicher zu stellen, und nach Erreichung dieser grossen nationalen Zwecke, die nach Fug und Recht den Vorzug vor der Regelung der Beziehungen zum Auslande verdienen, auch dem ohne Zweifel vorhandenen Bedürfniss einer zeitgemässen Erleichterung und Belebung des Verkehrs mit dem Europäischen Westen gerecht zu werden. ¶ Ew. etc. wollen die vorstehenden Bemerkungen nicht nur zur Kenntniss der Königlich Bayerischen Regierung bringen, sondern auch dieselbe ersuchen, es gefälligst übernehmen zu wollen, im Anschluss an die Mittheilungen, die sie in Bezug auf die Vorschläge Oesterreichs im eigenen Namen an die Generalconferenz zu bringen in dem Fall ist, ihren Vereinsgenossen auch die gegenwärtige Erklärung bevorwortend vorzulegen, falls sie dies, wie wir hoffen, den Ueberzeugungen entsprechend finden wird, die sie in dieser Angelegenheit zu unserer hohen Genugthuung mit uns theilt. Zu solchem Zwecke wollen Ew. etc. dem K. Herrn Minister des Aeussern eine Abschrift dieser Depesche in Händen lassen. ¶ Empfangen etc. *Rechberg.*

No. 1989. Oesterreich, 26. März 1863.

No. 1990.

BAYERN. — Min. d. Ausw. an mehrere Zollvereinsregierungen. — Vorschläge zu einer vorläufigen Vereinbarung üb. d. Zollvereinsverträge. —

No. 1990. Bayern, 18. Juni 1863.

Am 5. Juni hat bei der Generalconferenz dahier die erste Verhandlung über den von Bayern in der Denkschrift vom 25. April näher entwickelten Antrag bezüglich der Oesterreichischen Zollpropositionen vom 10. Juli v. J. stattgefunden, und es wurden von sämmtlichen Conferenzbevollmächtigten Erklärungen abgegeben, deren Inhalt bereits auf directem Wege zur Kenntniss der — — Regierung gelangt sein wird. Von denjenigen Erklärungen, welche nicht mit der Auffassung der Königlich Bayrischen Regierung übereinstimmen, ist zunächst jene des Königlich Preussischen Bevollmächtigten von Bedeutung, und die Königlich Bayrische Regierung glaubt daher vorläufig auch nur diese ins Auge fassen und zum Gegenstande weiterer Erörterung machen zu sollen. In dieser Erklärung ist folgende Stelle die entscheidende:

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„Die Fortsetzung des Vereins, unter Aufrechthaltung des mit Frankreich geschlossenen Vertrages, und die Regelung der Verhältnisse des in seinem Fortbestande gesicherten Zollvereins zu dem Oesterreichischen Kaiserstaate ist und bleibt das Ziel ihrer (der Königlich Preussischen Regierung) Bestrebungen. Um diesem Ziele näher zu treten, erklärt die Preussische Regierung hiermit ausdrücklich, dass sie die Einleitungen zu den Berathungen wegen der Fortsetzung des Zollvereins alsbald nach dem Schlusse der gegenwärtigen Conferenz treffen werde."

Da nach der Natur der Sache sowohl, als nach den ausdrücklichen Erklärungen der Kaiserlich Königlichen Regierung kein Zweifel darüber obwalten kann, dass eine Aufrechthaltung des Vertrags mit Frankreich, so wie er liegt, und eine Fortsetzung des bisherigen Vertrags mit Oesterreich durchaus unvereinbar seien, und da es eben so unzweifelhaft ist, dass von Seite derjenigen Vereinsregierungen, welche jenen Vertrag entweder gar nicht, oder nur mit Modificationen annehmen zu können erklärt haben, auf eine Verhandlung nicht wohl wird eingegangen werden wollen, welche das Aufgeben ihres bisherigen selbstständigen Standpunktes zur vorgängigen Bedingung machen würde, so erachtete es die Königlich Bayrische Regierung für nothwendig, eine nähere Erklärung über die Bedeutung und Tragweite jener Stelle zu verlangen, zugleich aber auch alle diejenigen Regierungen, welche bisher auf die Bayrischen Propositionen mehr oder minder ausweichend geantwortet haben, um bestimmtere Aeusserung zu ersuchen. Zu diesem Ende hat der Bayerische Bevollmächtigte am 13. dieses Monats in der Generalconferenz die im Abdruck angefügte weitere Aeusserung abgegeben. ¶ Da in der Preussischen Erklärung vom 5. Juni das Vorhaben, die Annahme des mit Frankreich abgeschlossenen Vertrags zur Bedingung der Erneuerung der Zollvereinsverträge zu machen, ziemlich bestimmt ausgedrückt ist, und da hiernach, wie nach dem ganzen bisherigen Verfahren der Königlich Preussischen Regierung die Besorgniss nahe liegen dürfte, es werde dieselbe auch fernerhin bemüht sein, diejenigen Regierungen, welche gedachten Vertrag abgelehnt haben, noch zu dessen Annahme und zu allen sich hieraus ergebenden Consequenzen, insbesondere zur Auflösung des bisherigen Vertragsverhältnisses mit Oesterreich zu bestimmen, so liegt es nicht ausser dem Bereiche des Wahrscheinlichen, dass die Antwort der Königlich Preussischen Regierung auf die neuerliche Aufforderung vom 13. dieses der früheren ähnlich oder mindestens einer Ablehnung gleichkommend und dilatorisch sein werde. ¶ Es dürfte demzufolge für alle diejenigen Regierungen, welche entweder den Französischen Vertrag abgelehnt haben, oder mindestens denselben nicht für höher und wichtiger anschlagen, als die Erneuerung des Zollvereins auf der bisherigen Grundlage, eine dringende Veranlassung gegeben sein, diese Eventualität, wie in der diesseitigen Denkschrift vom 25. April d. J. bereits angedeutet und von mehreren Regierungen als zweckmässig anerkannt worden ist, jetzt schon ins Auge zu fassen und ihr Verfahren für einen solchen Fall zum Voraus festzustellen und gemeinschaftlich zu regeln. Und selbst in dem erwünschten Falle, dass die zu erwartenden weiteren Aeusserungen in einem Sinne erfolgen, welcher den Ein-

tritt in die in der Erklärung des Preussischen Commissars vom 5. v. M. in Aussicht gestellten Verhandlungen ermöglichen wird, möchte es dennoch räthlich sein, sich jetzt schon, für den Fall etwaiger Erfolglosigkeit dieser Verhandlungen in der vorerwähnten Weise über ein weiteres gemeinschaftliches Verfahren eventuell zu einigen. ¶ Die Bayerische Regierung glaubt in diesen Erwägungen eine Aufforderung erkennen zu sollen, vorbereitende Einleitungen zu einem solchen weiteren Verfahren in Erwägung zu ziehen, und desfallsige Vorschläge den übrigen betreffenden Regierungen zur nähern Prüfung und Entschliessung mitzutheilen. ¶ Nach ihrer Ansicht würde das zweckmässigste Mittel zur Erreichung des angestrebten Zieles darin bestehen, wenn die betreffenden Regierungen durch eine vorläufige, lediglich im Correspondenzwege festzustellende Vereinbarung ihr ferneres gemeinsames Vorangehen zum Zwecke der Erhaltung und Continuität des Zollvereins und Vertragsverhältnisses zu Oesterreich regeln würden. ¶ Eine solche Verabredung hätte nun das Verfahren zur Erneuerung der bisherigen Zollvereinsverträge, die Offenhaltung des Beitritts für alle bisherigen Vereinsmitglieder, die Erhaltung und Erneuerung des Vertrages vom 19. Februar 1853 mit Oesterreich, sowie die eventuellen ferneren Verhandlungen mit demselben aus Anlass seiner Propositionen vom 10. Juli v. J., dann die Festsetzung eines gemeinsamen Verfahrens in diesen Angelegenheiten zum Zwecke. Die K. Bayerische Regierung hat ihre Auffassung in die in Abschrift angefügte vorläufige Punctation zusammengefasst, und beabsichtigt, im Falle erfolgender Zustimmung von Seiten der anderen Vereinsstaaten, die hierin bezeichneten weiteren Verhandlungen sogleich an die dermalige Zollconferenz anzureihen. ¶ Sie richtet daher an alle diejenigen Vereinsregierungen, aus deren Erklärungen sie eine der ihrigen analoge Absicht bezüglich der Erneuerung der bisherigen Zollvereinsverträge folgern zu dürfen glaubt, das ergebenste Ersuchen, sich über die anliegende Punctation, sowie über die beantragten, unmittelbar nach dem Schlusse der gegenwärtigen Zollconferenz vorzunehmenden Verhandlungen, gefälligst äussern zu wollen.

München, den 18. Juni 1863.

K. Bayerisches Staatsministerium
des K. Hauses und des Auswärtigen.
Freiherr *v. Schrenck.*

Punctationen zu einer vorläufigen Vereinbarung über die Zollvereinsverträge.

1) Die contrahirenden Regierungen erklären hiermit ihre Bereitwilligkeit, den bestehenden Deutschen Zollverein, und zwar im Wesentlichen auf der durch die Verträge vom 4. April 1853 festgesetzten Grundlage, fortzusetzen und zu diesem Ende demnächst Verhandlungen zu eröffnen und einen Vertrag abzuschliessen.

2) Im Falle nicht alle, den gegenwärtigen Zollverein bildenden Staaten geneigt sein sollten, einer Fortsetzung des Vereins auf der angegebenen Grundlage beizutreten, werden die jetzt contrahirenden Staaten wenigstens ihrerseits

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die Continuität des Vereins wahren und zu diesem Ende einen Erneuerungsvertrag schliessen, den vorläufig nicht beitretenden Staaten aber den späteren Beitritt ausdrücklich vorbehalten.

3) Sollte es von Seite der den Zollverein fortsetzenden Regierungen für angemessen erachtet werden, den Verein selbst in zwei Gruppen zu theilen, so soll jede dieser Gruppen als ein integrirender Theil des Zollvereins betrachtet werden und zwischen denselben vollkommene Verkehrsfreiheit für alle inländischen Landes- und Industrieproducte, sowie, soweit möglich, vollkommene Gleichheit aller inneren Einrichtungen bestehen. Die vollständige Vereinigung soll sofort wieder eintreten, sobald die entgegenstehenden Hindernisse beseitigt sind.

4) Die contrahirenden Regierungen erklären in gleicher Weise ihre Bereitwilligkeit, den unterm 19. Februar 1853 mit Oesterreich abgeschlossenen Vertrag zu erneuern und in Gemässheit des Art. 35 desselben zu erweitern.

5) Zu diesem Ende wollen dieselben mit der K. K. Oesterreichischen Regierung aus Anlass der Proposition derselben vom 10. April v. J. in Verhandlung treten und werden sofort nach Abschluss des gegenwärtigen Vertrags aus ihrer Mitte eine oder mehrere Regierungen bevollmächtigen, welche die Verhandlungen mit Oesterreich führen sollen.

6) Die contrahirenden Regierungen erklären sich ferner bereit, eine angemessene Reform des gegenwärtigen Vereinstarifs im Sinne der Erleichterung mit Rücksicht auf die Verhältnisse zu Oesterreich entweder in nächster Zeit oder im Laufe der weiteren Verhandlungen eintreten zu lassen.

7) Dieselben verpflichten sich endlich gegenseitig, sowohl bei den erwähnten Verhandlungen mit Oesterreich als auch bei allen sonstigen Massregeln, welche eine wesentliche Abänderung der bisherigen Grundlagen und Bestimmungen des Zollvereins bezwecken, nur im gemeinschaftlichen Einverständnisse zu verfahren und zu diesem Ende einen fortwährenden directen Verkehr zu unterhalten.

No. 1991.

PREUSSEN. — Min. d. Ausw. an die Kön. Vertreter bei den Zollvereinsregierungen. — Die Bayersche Erklärung in der Sitzung der Generalconferenz vom 13. Juni betr. —

Berlin, 8. Juli 1863.

No. 1991. Preussen, 8. Juli 1863.

Sämmtlichen Zollvereins-Regierungen ist die Erklärung bekannt, welche die Königlich Bayerische Regierung in der Sitzung der General-Conferenz vom 13. v. M. hat abgeben lassen. Inhalt und Fassung derselben mussten uns die Frage nahe legen, ob die Königlich Bayerische Regierung in dem, in früheren wiederholten Erklärungen kundgegebenen Bestreben, eine allseitige Verständigung herbeizuführen, beharren wolle. Die von ihr, wenige Tage nach dieser Erklärung, und bevor eine Antwort Preussens auf dieselbe auch nur möglich war, an mehrere Vereins-Regierungen gerichtete, inzwischen durch die Presse bekannt

No. 1991. Preussen, 8. Juli 1863.

gewordene Mittheilung vom 18. v. M. war zu unserm Bedauern nicht geeignet, Momente für die Bejahung jener Frage darzubieten. ¶ Unter solchen Umständen würden wir über den Inhalt unserer Antwort auf die Bayerische Erklärung vom 13. Juni nicht im Zweifel gewesen sein, wenn wir uns bei den Verhandlungen der General-Conferenz lediglich den von der Königlich Bayerischen Regierung vertretenen Auffassungen gegenüber auszusprechen hätten. Der Königliche Bevollmächtigte würde alsdann angewiesen worden sein, in seiner Erwiderung darauf hinzuweisen, wie Bayern nach Inhalt der Erklärung vom 13. v. M. eine Verhandlung über die Erneuerung des Zollvereins sowohl, als über die Verhältnisse zu Oesterreich nur unter der Voraussetzung überhaupt als möglich betrachte, wenn Preussen die Aufrechthaltung des Vertrages mit Frankreich dahin auffasse, dass es zwar den dabei leitend gewesenen Principien und Anschauungen auch fernerhin Geltung zu verschaffen bestrebt sein werde, den Vertrag als solchen aber aufgebe. An diesen Hinweis würde der Königliche Bevollmächtigte lediglich die Erklärung anzuknüpfen gehabt haben, dass die fragliche Voraussetzung nicht zutreffe, und Preussen daher die von ihm in seiner Erklärung vom 5. Juni vorgeschlagenen Verhandlungen von Seiten der Königlich Bayerischen Regierung als abgelehnt betrachte. Wenn eine solche Entwickelung in der Absicht der Königlich Bayerischen Regierung liegt, so würden wir diese im gemeinsamen Interesse der Bevölkerung des vereinten Zollgebietes beklagen. ¶ Aber wie wir es für unsere eigene Pflicht halten, die Zollvereinsverträge nur unter solchen Bedingungen zu erneuern, welche wir mit der Wohlfahrt Preussens verträglich finden, so achten wir auch die Freiheit der Entschliessung, mit welcher die Königlich Bayerische Regierung entscheiden wird, in wie weit die Interessen ihrer Unterthanen sich mit den Grundlagen, auf welchen wir unsererseits den Verein fortzusetzen vermögen, vereinbaren lassen. Das Bedürfniss, hierüber allseitig zur Klarheit zu gelangen, wird nach unsern Wahrnehmungen von sämmtlichen Zollverbündeten gleichmässig empfunden, und wir glauben, die Sorgfalt, welche wir der Zukunft des Zollvereins widmen, nicht wirksamer bethätigen zu können, als durch die bereits in Aussicht gestellte Einladung zu Conferenzen, auf welchen jede Vereins-Regierung die Bedingungen wird formuliren können, unter welchen sie in die Erneuerung der Zollvereins-Verträge zu willigen bereit ist. ¶ Wir haben uns in der von unserem Bevollmächtigten am 5. Juni abgegebenen Erklärung bereits über die Ziele ausgesprochen, welche wir bei Fortsetzung des Zollvereins im Auge haben. Wir glauben, dass andere Vereins-Regierungen über diese Ziele mit uns einverstanden sind und wir wissen, dass die in der Erklärung des Königlich Bayrischen Bevollmächtigten vom 13. Juni ausgesprochene Auffassung keineswegs allseitig getheilt wird. Aus diesem Grunde haben wir auch den vorliegenden Anlass nicht unbenutzt lassen wollen, um unseren Zollverbündeten jede weitere Aufklärung über unsere Auffassung zu geben, welche unter den gegenwärtigen Verhältnissen zur Förderung der Verständigung beitragen und, ihrer sachlichen Bedeutung nach, bei den Verhandlungen der General-Conferenz überhaupt als am rechten Orte erscheinen kann. Auf diesem Gesichtspunkte beruht die Erklärung, welche von unserem Bevollmächtigten bei der Conferenz abgegeben werden wird und welche ich in Ab-

No. 1991. Preussen, 8. Juli 1863. schrift beifüge. ¶ Ew. etc. ersuche ich ergebenst, dem Herrn etc. sowohl von dieser Erklärung, als auch von der gegenwärtigen Depesche Mittheilung zu machen und ihm Abschrift beider Schriftstücke zur Verfügung zu stellen. ¶ Der Minister der auswärtigen Angelegenheiten. Im Auftrage:

v. Thile.

No. 1992.

BAYERN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Motivirter Antrag auf Vertagung der Zollconferenz. —

No. 1992. Bayern, 21. April 1864. Die Königlich Preussische Regierung hat bekanntlich am Schlusse des jüngsten Zollconferenzabschnittes durch ihre Bevollmächtigten eine Erklärung übergeben, in welcher sie die Modificationen bezeichnet, welche sie bezüglich des Zoll- und Handelsvertrags mit Frankreich bei letzterer Regierung zu beantragen geneigt ist, und zugleich an diejenigen Vereinsregierungen, welche diesem Vertrage und den übrigen damit in Verbindung gebrachten Vereinbarungen noch nicht beigestimmt haben, die Anforderung gestellt, sich bestimmt zu erklären, dass ihre Zustimmung zu den genannten Verträgen in dem Falle für gesichert angenommen werden könne, wenn eine Verständigung auf Grundlage der von Preussen zu machenden Vorschläge zu Stande käme. In derselben Erklärung ist ferner von Seite Preussens die Bereitwilligkeit ausgesprochen, über die im Artikel 25 des Vertrages mit Oesterreich vom 19. Februar 1853 in Aussicht genommene möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife in Unterhandlung zu treten. ¶ Die Königlich Bayerische Regierung hat seit Eröffnung der Verhandlungen in Berlin stets offen und unumwunden ausgesprochen, dass ihr eine Lösung der obschwebenden Differenzen sowohl hinsichtlich des Verhältnisses zu Frankreich, als hinsichtlich des Verhältnisses zu Oesterreich erwünscht sei, und sie hat sich demgemäss bei allen sich darbietenden Veranlassungen angelegen sein lassen, jedem Antrage entgegen zu kommen, der dieses Ziel in das Auge gefasst hat. Von derselben Auffassung geht sie auch bei der Würdigung dieser neuesten Preussischen Erklärung aus. So sehr sie derselben das sichtliche Bestreben zu entnehmen gehabt hat, von einem einmal angenommenen Standpunkte aus auch den anderweitigen Forderungen gerecht zu werden, so wenig kann sie dabei das Bedenken unterdrücken, dass es möglich werden werde, auf diesem Wege die Forderungen zu erfüllen, welche die bestehenden Verpflichtungen des Zollvereins eben so sehr stellen, als die sonstigen politischen Verhältnisse und das politische Band, welches Oesterreich mit Deutschland und dadurch mit dem Zollverein verbindet. Es ist allseitig anerkannt und wird auch von Königlich Preussischer Seite bereitwillig zugegeben werden, dass ein Hauptstein des Anstosses an dem Handelsvertrage mit Frankreich in dem Artikel 31 desselben liege, für dessen Modificirung in beschränktem Sinne auch die Königlich Preussische Regierung ihre guten Dienste angeboten hat. Die Königlich Preussische Regierung hat jedoch zugleich ausgedrückt und wohl mit vollem Rechte hervorgehoben, dass die Einleitung von Verhand-

lungen mit Frankreich über diese Frage durch die Eröffnung von Verhandlungen mit Oesterreich bedingt sei, da sich erst nach Massgabe derselben werde bestimmen lassen, welche Richtung die ersteren Verhandlungen zu nehmen haben werden. ¶ Es liegt sohin in der Consequenz der eigenen Anschauungen der Königl. Preuss. Regierung, dass vor Allem Verhandlungen mit Oesterreich nach Massgabe des Artikels 25 des Februarvertrages eröffnet werden, und bekanntlich haben Bayern und mehrere andere Vereinsregierungen nicht nur diese nothwendige Folgerung an die Spitze ihrer Anträge gestellt, sondern betrachten auch einen loyalen Vollzug dieses Vertrages und seiner Bestimmungen im Sinne der in ihm dargelegten Tendenzen als eine unverkennbare Verpflichtung des Zollvereines. ¶ Die Königlich Preussische Regierung hat sich nun zwar bereit erklärt, Verhandlungen mit Oesterreich, jedoch auf einer sehr beschränkten und dem Sinne wie dem Wortlaute des Artikels 25 keineswegs genügenden Grundlage zu eröffnen. ¶ Diesem steht jedoch die ausdrückliche Erklärung der K. K. Oesterreichischen Regierung gegenüber, dass sie im Falle der Aufrechthaltung des Artikels 31 nicht allein keine künftige Zolleinigung mehr für möglich erachte, sondern auch keine Fortbildung des Februarvertrages, ja nicht einmal die Fortsetzung desselben; denn es würde schwer fallen, für einen neuen Zoll- und Handelsvertrag irgend einen Inhalt zu gewinnen, der für Oesterreich noch einen Werth hätte, wenn dies nur unter den Bedingungen jenes Französischen Handelsvertrages geschehen könne, welcher an sich schon so sehr der Gegenseitigkeit entbehre und dessen Spitze nicht allein politisch, sondern auch in manchen Tarifsätzen ohnehin gegen Oesterreich gekehrt sei. ¶ Dass dieser Erklärung Oesterreichs gegenüber die von Preussen dargelegte Bereitwilligkeit zu Verhandlungen auf einer enge begrenzten Grundlage jede Aussicht auf Erfolg, so wie für diejenigen Regierungen, für welche die Erhaltung des Verkehrs und des politischen Verbandes mit Oesterreich von überwiegender Wichtigkeit ist, allen Werth verliere, bedarf keiner näheren Erörterung. Eben so unzweifelhaft ist es, dass bei dieser Sachlage ein unbedingtes Beharren auf dem von der Königlich Preussischen Regierung bisher eingenommenen Standpunkte und sonach auch ein Eingehen auf die in der Erklärung vom 23. v. M. gestellte Anforderung von Seite der übrigen Regierungen keineswegs die bestehenden Schwierigkeiten beseitigen könne, vielmehr nur geeignet wäre, die Gefahren und Verwickelungen für den gesammten Zollverein zu vermehren. Es dürfte sich vielmehr in ersterer Linie für die Königlich Preussische Regierung die Erwägung aufdringen, wie sie den fraglichen Bestimmungen des Februarvertrages und den hieraus hervorgehenden Verpflichtungen, so wie den hierin begründeten gewichtigen Interessen mehrerer Vereinsregierungen und insbesondere der Bayerischen, für welche der Verkehr mit Oesterreich von weit grösserer Wichtigkeit ist, als jener mit Frankreich, in einer Weise zu entsprechen vermöge, die wenigstens einige gegründete Aussicht auf einen günstigen Erfolg darbietet. ¶ Die Bayerische Regierung wenigstens kann nur wiederholt ihre bei jeder passenden Gelegenheit ausgesprochene Ueberzeugung darlegen, dass sie eine Annahme des Französischen Vertrages ohne vorhergehende befriedigende Feststellung des handelspolitischen Verhältnisses zu Oesterreich weder mit den Verpflichtungen, noch mit den wahren Interessen des Zollvereins

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für vereinbar erachte. ¶ An der Königlich Preussischen Regierung wird es sonach sein, diese von einem grossen Theile des Zollvereins getheilte Ueberzeugung nochmals einer unbefangenen Erwägung zu unterstellen. ¶ Zu einer Berathung von Seite der Zollconferenz scheint der Bayerischen Regierung bei dieser Sachlage keine Veranlassung vorzuliegen, da sich dieselbe für jetzt lediglich auf die Entgegennahme der auf die Preussische Aufforderung vom 23. v. M. erfolgenden Antworten beschränken müsste und ein weiteres Material erst dann gegeben wäre, wenn die Möglichkeit einer Verständigung mit Oesterreich durch Aufstellung einer annehmbaren Basis für diese Verhandlung von Seite der Königlich Preussischen Regierung in Aussicht stehen wird. ¶ Die Bayerische Regierung glaubt daher auch gegenüber der soeben erhaltenen Ablehnung des Königlich Preussischen Ministeriums vom 16. d. M. die Wiedereröffnung der Zollconferenz länger als bis zum 25. d. M. zu verschieben, wiederholt eine Vertagung derselben, allenfalls bis Ende Mai, beantragen zu sollen. ¶ Die Königliche Gesandtschaft wird demnach beauftragt, gegenwärtige Erklärung unverzüglich zur Kenntniss des Königlich Preussischen Ministeriums zu bringen, zu welchem Ende eine Abschrift derselben hier beigefügt wird.

München, den 21. April 1864.

v. Schrenck.

No. 1993.

BAYERN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Nochmaliges Verlangen der Vertagung der Conferenzen. —

No. 1993. Bayern, 30. April 1864.

In der mit Bericht vom 27. d. M. vorgelegten Ministerialnote von gleichem Datum wird von der K. Preussischen Regierung erklärt, dass sie auch nach erneuerter Erwägung sich nicht in der Lage befinde, zu der von Bayern gewünschten Vertagung der Conferenz die Hand zu bieten, indem die K. Preussische Regierung nicht gesonnen sei, zu dem Zwecke dieser Vertagung, nämlich der Herbeiführung einer Verständigung mit Oesterreich, auf andere Weise mitzuwirken, als dies schon durch die bisherigen Erklärungen, insbesondere jene vom 11. Februar und 23. März d. J. dargelegt worden sei. ¶ Durch diese Erklärung aber dürfte gerade das von Bayern gegen die Zweckmässigkeit einer Conferenzberathung im gegenwärtigen Augenblicke geäusserte Bedenken, dass es nämlich an jedem Material und jeder Grundlage zu einer solchen Berathung und dadurch an der Möglichkeit gebreche, irgendwie zu einem Resultate zu gelangen, seinem vollen Umfange nach bestätigt erscheinen. Die von Preussen angebotene Grundlage einer Verhandlung mit Oesterreich ist nämlich, wie uns dünkt, weder an und für sich den aus dem Vertrage vom 19. Februar 1853 hervorgehenden Verpflichtungen entsprechend, noch kann solche von Bayern, dessen Interessen bei dem Verkehre mit Oesterreich in so hohem Grade betheiligt sind, als genügend erachtet werden, während andererseits Oesterreich eine solche mit aller Bestimmtheit zurückweist und jede Verhandlung auf dieser Grundlage für unmöglich erklärt. Das Anerbieten der K. Preussischen Regierung stellt

also unter den gegebenen Umständen keinen weiteren Erfolg in Aussicht, und es ergiebt sich hieraus von selbst die Frage, wie denn überhaupt die K. Preussische Regierung den aus dem Februarvertrage hervorgehenden Verpflichtungen, sowie den Rücksichten auf die Interessen Bayerns, die eine Erhaltung des Verkehres mit Oesterreich gebieterisch verlangen, zu entsprechen gedenke. Dieselbe hat bisher den auf diesen Zweck gerichteten Mittheilungen, und so auch unserer letzten vom 21. d. M. eine blosse Verneinung gegenüber gestellt, und wir vermögen nicht abzusehen, wie hierauf weitere Verhandlungen gegründet werden und zu welchem Resultate diese führen sollen. ¶ Wenn die K. Preussische Regierung bei verschiedenen Anlässen und auch in der vorliegenden Note vom 27. d. M. die Ansicht andeutet, dass ihr Verfahren zunächst durch die Interessen des eigenen Landes und das gemeinsame Interesse, so wie es nach ihrer Ueberzeugung sich darstelle, geleitet werde, so kann dagegen nicht unerwähnt bleiben, dass es sich nach unserer Auffassung in erster Linie um vertragsmässige Verpflichtungen handelt und dass, soweit Interessen in Fragen stehen, die Bayerischen Interessen mit einer Erhaltung und Entwickelung der bestehenden Zustände verknüpft sind, während von anderer Seite die Herbeiführung ganz neuer Zustände bezweckt wird, deren gemeinsame Vortheile noch problematisch, deren Nachtheile aber, und zwar vorzugsweise für Bayern, evident sind. ¶ Nach dem von Preussen gewählten Standpunkte würde selbst nicht die Fortdauer des Vertrages mit Oesterreich vom 19. Februar 1853, viel weniger aber die in demselben zugesagte Erweiterung möglich sein, sonach eine wesentliche Beschränkung und Verschlimmerung der Verkehrsverhältnisse Bayerns im Vergleich zu den dermaligen herbeigeführt werden. So wie die Bayerische Regierung es bisher für ihre Pflicht erachtet hat, sich keinem Versuche, keiner Berathung zu entziehen, welche eine — wenn auch entfernte — Hoffnung der Herbeiführung einer Verständigung versprechen konnte, so ist sie es auch ihrer rechtlichen Ueberzeugung und den Interessen ihres Landes schuldig, sich einer Berathung zu entziehen, deren Ausgang ihrer Auffassung nach entweder illusorisch, oder aber mit ihrer rechtlichen Auffassung unvereinbar und eine Hintansetzung der eigenen Interessen sein müsste. Erst wenn die K. Preussische Regierung in föderativem Sinne eine Verhandlungsgrundlage geboten haben wird, welche die verschiedenen Gegensätze zu versöhnen vermag, oder wenn von anderer Seite ein dahin abzielender Vorschlag gebracht worden sein wird, können unseres Erachtens die Berathungen wieder einen sichtbaren anerkannten Zweck und eine Aussicht auf Erfolg gewähren. Hierzu hat die Bayerische Regierung eine Vertagung bis Ende Mai vorgeschlagen und der K. Preussischen Regierung die Initiative anheimgestellt, zunächst durch eine nochmalige Erwägung aller Momente ihrerseits die Einleitung zur Erreichung der von allen Seiten gewünschten Verständigung zu treffen, und sie glaubt auch jetzt noch an diesem Vorschlage festhalten und sich gegen eine Wiedereröffnung der Conferenz am 2. Mai aussprechen zu sollen. ¶ Der K. Gesandte Graf von Montgelas wird daher beauftragt, unverzüglich diese Bemerkungen dem K. Preussischen Ministerium mitzutheilen.

München, den 30. April 1864.

Schrenck.

No. 1994.

ÖSTERREICH. — Min. d. Ausw. an den K. K. Geschäftstr. in Berlin. — Ueberreichung der Münchener Punctationen als Basis eines Vertrags zwischen Oesterreich und dem Zollverein. —

Wien, 28. Juli 1864.

No. 1994. Oesterreich, 28. Juli 1864.

Seit unserm Erlass an den Grafen Karolyi vom 20. April l. J. über das unbefriedigende Ergebniss der Prager Zollbesprechung ist das Vertragsverhältniss Oesterreichs zum Zollverein im amtlichen Schriftverkehr zwischen Wien und Berlin direct nicht wieder erörtert worden. ¶ Unterdessen sind wir bemüht gewesen, eine mehr Erfolg versprechende Grundlage der Verständigung im Einvernehmen mit Bayern und andern Zollvereinsregierungen zu suchen, welche als Mitcontrahenten des Vertrags vom 19. Februar 1853 unsere darauf begründeten Rechte anzuerkennen und den Preussisch-Französischen Handelsvertrag zugleich im eigenen Interesse abzulehnen fortgefahren hatten. ¶ Als eine solche Grundlage glauben wir in der That die Punctationen betrachten zu dürfen, welche am 12. d. M. zu München zwischen unsern Bevollmächtigten und jenen von Bayern Württemberg, Grossherzogthum Hessen und Nassau beabredet worden sind, und welche Ew. etc. in Abschrift hierneben mit dem Auftrag zugehen, dieselben der Königl. Preussischen Regierung zu übergeben, und unter Mittheilung der nachstehenden Erwägungen für die uns wiederholt und zuletzt durch den Erlass an Frhrn. v. Werther vom 17. April d. J. in Aussicht gestellten Verhandlungen zur Annahme zu empfehlen. ¶ Nach Art. 25 des Februar-Vertrags haben wir einen Anspruch darauf, dass in erster Linie über die ausdrücklich stipulirte Zolleinigung verhandelt werde, und es wäre diese Verhandlung durch die vom Zollverein dazu delegirten Regierungen von Preussen, Bayern und Sachsen mit uns zu führen. Nachdem jedoch die Verhandlungen über den Preussisch-Französischen Handelsvertrag in ein so vorgerücktes Stadium getreten sind, so ist in den Münchener Punctationen für jetzt auf der Grundlage der Zolleinigung und auf einer Verhandlung über unsere eigenen Vorschläge vom 10. Juli 1862 nicht mehr bestanden worden: wir haben vielmehr durch die Registratur vom 12. d. M. die Verpflichtung übernommen, die gedachten Punctationen an erster Stelle der K. Preussischen Regierung für eine nächste Zollvereinsperiode lediglich als Grundlage eines Uebereinkommens zur Fortbildung der Bestimmungen der Februar-Verträge vorzuschlagen, und wir glauben, dass die wesentlichen Vorbedingungen am zweckmässigsten zwischen Oesterreich und Preussen — den gegenwärtigen eng befreundeten Beziehungen entsprechend — festgestellt werden sollten. ¶ Es ist deshalb in vollständiger Uebereinstimmung der in München vertreten gewesenen Regierungen sorgfältig vermieden worden, dem dort erzielten Einverständniss einen solchen Ausdruck zu geben, welcher der schliesslichen Verständigung mit Preussen hätte vorgreifen oder hinderlich werden können. ¶ Wenn nun aber in dem diesseitigen Vorgehen der Stellung Preussens als der vertragsschliessenden Macht bei dem Französischen Handelsvertrag Namens des Zollvereins in so hohem Mass Rechnung getragen wurde, und wenn

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wir unsererseits gern eine gleiche Rücksicht für Oesterreich in der Fassung erkennen wollen, welche Preussen dem Art. 5 der Separatverträge mit Sachsen und mit andern Zollvereinsregierungen gegeben hat, so müssen wir doch weiter den höchsten Werth darauf legen, dass die Verhandlungen mit uns auf der gegenwärtig dargebotenen Grundlage in kürzester Frist eröffnet werden, dass uns aber eine offene und entgegenkommende Erwiderung alsbald zu Theil werde. ¶ Die Königl. Preussische Regierung hat uns zwar ihren Wunsch einer Vertagung der Verhandlungen bis nach dem 1. October sowohl hier durch den Frhrn. v. Werther als auch durch die vertrauliche Mittheilung hochgestellter Königl. Beamten ausgesprochen, wovon Ew. etc. in Ihrem Bericht vom 16. d. M. Erwähnung thun; allein wir können in den uns mitgetheilten Motiven um so weniger einen für uns genügenden Grund des Aufschubs für volle zwei Monate erkennen, als wir bereits im vorigen Winter, vor Eröffnung der Berliner Zollconferenzen, ein längeres Beruhen der Zollverhandlungen uns nur auf den ausdrücklichen Wunsch der K. Preussischen Regierung haben gefallen lassen, um so weniger gerade jetzt als wir nothwendig über die vorliegende Frage für den im Laufe des Monats October zusammentretenden Reichsrath Gewissheit haben und rechtzeitig die erforderlichen Vorlagen ausarbeiten müssen. ¶ Damit wir es unsererseits an aller Bereitwilligkeit sowohl als an wünschenswerther Bestimmtheit nicht fehlen lassen, nehmen wir keinen Anstand, im voraus für die directe Verhandlung mit Preussen zwei Punkte von eminent politischer Bedeutung mit aller Offenheit zu bezeichnen, welche in unserem Auge die Vorbedingungen unseres Eingehens in die Verhandlungen und zugleich den Prüfstein des Gelingens derselben bilden. ¶ Das Ziel einer künftigen Zolleinigung müssen wir auch über die nächste Zollvereinsperiode hinaus vertragsmässig festhalten, und wir müssen vor der ausschliesslichen Verhandlung mit Preussen darauf bestehen, dass uns deshalb eine bündige Zusage von vornherein gegeben werde. Das ist unsere erste und unerlässliche Vorbedingung. Die zweite geht dahin, dass die von Oesterreich zu verlangenden Begünstigungen früher verabredet, und dass die Grundzüge des zwischen Oesterreich und dem Zollverein zu erneuernden Vertragswerks festgestellt werden, bevor die Ratification des Französischen Handelsvertrags erfolgt. Die von Oesterreich zu verlangenden besonderen — d. h. von der Theilnahme Frankreichs ausschliessenden — Begünstigungen werden sich auf einige wenige Artikel beschränken. ¶ Hiernach glauben wir die zuversichtliche Hoffnung hegen zu dürfen, dass die K. Preussische Regierung unsere Eröffnungen in ernste Erwägung ziehen und uns baldigst eine entgegenkommende Rückäusserung darüber zugehen lassen werde: ob ihr unter den kundgegebenen Vorbedingungen ein erneuertes Zusammentreten beiderseitiger höherer Fachbeamten zum Zweck der Verständigung genehm ist, welche Persönlichkeit sie dazu ausersieht, und welche Oertlichkeit ihr passend erscheint. Sollte wider Erwarten das Königl. Cabinet es ablehnen, in die angebotene Verhandlung sofort einzutreten, so würden wir zu unserm grössten Bedauern darin eine Missachtung der uns gegenüber bestehenden Vertragsverpflichtungen erkennen müssen, und wir würden uns keiner Täuschung darüber hingeben, dass ein solches Vorgehen unvereinbar sein würde mit dem zwischen beiden Regierungen so glücklich be-

No. 1994. Oesterreich, 28. Juli 1864. stehenden bundesfreundlichen Verhältniss. ¶ Ew. etc. wollen den gegenwärtigen Erlass, wovon dem hier anwesenden Königl. Hrn. Ministerpräsidenten v. Bismarck Mittheilung gemacht wird, dem Hrn. Unterstaatssecretär v. Thile vorlesen, demselben eine Abschrift zur Verfügung stellen und die Versicherung meiner vollen Achtung empfangen.

Rechberg.

No. 1995.

PREUSSEN. — Min. d. Ausw. an den Kön. Gesandten in Wien. — Antwort auf die vorstehende Oesterr. Dep. vom 28. Juli. —

Schönbrunn, 25. August 1864.

No. 1995. Preussen, 25. Aug. 1864. Ew. etc. sind durch meinen Erlass vom 13. Aug. davon unterrichtet, dass ich über die Vorschläge, welche der Herr Graf v. Rechberg in der Ihnen bekannten Depesche an den Herrn Grafen v. Chotek vom 28. Juli wegen künftiger Gestaltung der Zoll- und Handelsverhältnisse zwischen dem Zollverein und Oesterreich gemacht hat, mit den Herren Ministern der Finanzen und für Handel etc. in Berathung getreten bin. Nachdem diese Berathung beendet und über ihr Ergebniss Sr. Maj. dem Könige Vortrag gehalten worden ist, beeile ich mich, Ew. etc. von der Auffassung in Kenntniss zu setzen, welche wir über die Vorschläge der Kaiserlichen Regierung gewonnen haben. ¶ Wir haben, wie Sie wissen, der Eröffnung commercieller Verhandlungen mit Oesterreich, zu denen uns frühere Zusagen und grosse materielle Interessen gleichmässig aufforderten, bisher deshalb Anstand geben müssen, weil solchen Verhandlungen vor erfolgter Reconstituirung des Zollvereins die subjective, und vor der Feststellung eines auf unsern Verträgen mit Frankreich beruhenden neuen Vereins-Zolltarifs die objective Grundlage gefehlt haben würde. Beide Grundlagen sind gegenwärtig vorhanden. Durch die nunmehr allseitig ratificirten Verträge vom 28. Juni und 11. Juli dieses Jahres ist der Zollverein, wenn auch nicht in seinem ganzen dermaligen Umfange, reconstituirt. Durch die nämlichen Verträge ist der neue Vereins-Zolltarif festgestellt, und unseren Verträgen mit Frankreich die Zustimmung ertheilt. Wir können daher den Zeitpunkt für die Eröffnung der von der Kaiserlichen Regierung gewünschten Verhandlungen zu unserer lebhaften Befriedigung als gekommen ansehen. ¶ Dass die ausser uns bei den neuen Vereinsverträgen betheiligten Regierungen diese Ansicht theilen werden, können wir überhaupt, insbesondere aber im Hinblick auf die vom Herrn Grafen v. Rechberg erwähnte Verabredung in Art. 7 des Vertrags vom 28. Juni nicht bezweifeln, welcher die Erhaltung und weitere Ausbildung des Vertrags-Verhältnisses zu Oesterreich als die gemeinschaftliche Aufgabe der contrahirenden Regierungen bezeichnet. Zur Erfüllung derselben werden die beabsichtigten Verhandlungen das vorbereitende Stadium bilden. ¶ Ueber die Aufgaben der Verhandlungen befinden wir uns in der Hauptsache mit Oesterreich im Einverständniss. Wir sind bereit, auf Grundlage des neuen Vereins-Zolltarifs über die möglichste Annäherung und Gleichstellung der beiderseitigen Zolltarife, sowie über die dadurch

bedingten gegenseitigen Erleichterungen des Abfertigungs-Verfahrens zu verhandeln. Wir wünschen die im Zwischen-Verkehr bestehenden Zollbefreiungen und Zollermässigungen soweit als thunlich zu erhalten und weiter auszudehnen. Wir erkennen eine gegenseitige Benachrichtigung und Rücksprache vor der Zollbefreiung oder Zollermässigung eines im Zwischenverkehr begünstigten Artikels als angemessen an; wir sind aber der Meinung, dass der Schutz des andern Theils vor den mittelbaren Wirkungen solcher Befreiungen oder Ermässigungen, soweit er nöthig ist, auch auf einem andern Wege als dem einer Erschwerung des gegenseitigen Verkehrs gesucht werden könne. Wir werden zur Aufrechterhaltung der beiderseitig bestehenden Zollfreiheit der Durchfuhr mit Freuden die Hand bieten und eintretenden Falls zu einer weitern als der jetzt erreichbaren Annäherung der beiderseitigen Tarife gern bereit sein. ¶ Wir wollen die Aufgabe der Berathungen nicht als mit diesen einzelnen Punkten für erschöpft bezeichnen, denn wir können die in der Depesche vom 28. Juli in den Vordergrund gestellte Frage der Zolleinigung nicht in der Form einer Vorbedingung der Unterhandlungen entscheiden, sondern wir sehen in der Stellung des künftigen Zollvereins zu dem Princip der Zolleinigung einen der Gegenstände der beabsichtigten Verhandlung. ¶ Was die andere in der Depesche vom 28. Juli hervorgehobene Vorfrage betrifft, so bemerke ich, dass die Ratification der Verträge mit Frankreich nicht unmittelbar bevorsteht. Wir haben unseren Zollverbündeten zugesagt, über einzelne Abänderungen und Ergänzungen dieser Verträge mit Frankreich in Verhandlung zu treten, und wir werden daher zunächst die Einleitung dieser nachträglichen Verhandlung in Paris beantragen. Wir kommen daher auch nicht in die Lage, die Ratification der Verträge eher vornehmen zu müssen, als der Versuch der Verständigung mit Oesterreich gemacht und sich das Ergebniss derselben übersehen lässt. ¶ Wir hoffen durch diese offene Erklärung der Kaiserlichen Regierung die Ueberzeugung zu gewähren, dass wir ihren Wünschen soweit entgegen zu kommen bereit sind, als die materiellen Interessen des Landes und des Zollvereins und die Rücksicht auf vertragsmässige Verpflichtungen es gestatten, und wir glauben, dass hiernach die weiteren Einleitungen zur Eröffnung von Verhandlungen nunmehr werden getroffen werden können. ¶ Indem ich Ew. etc. ersuche, dem Herrn Grafen v. Rechberg den gegenwärtigen Erlass vorzulesen und eine Abschrift desselben zur Verfügung zu stellen, bemerke ich, dass ich die bei den Verträgen vom 28. Juni und 11. Juli betheiligten Regierungen von unserer Auffassung in Kenntniss setze. Indem ich das Einverständniss derselben mit Zuversicht voraussetzen darf, behalte ich mir eine demnächstige fernere Mittheilung und zugleich meine Vorschläge über den Tag der Eröffnung der Verhandlungen vor. Von unserer Seite steht der Wahl eines nahen Termins kein Hinderniss entgegen.

v. Bismarck.

An den Freiherrn v. Werther in *Wien.*

No. 1996.

PREUSSEN und **GROSSBRITANNIEN.** — Schifffahrtsvertrag.*) —

No. 1996. Preussen und Gross-britannien, 16. Aug. 1865.

Seine Majestät der König von Preussen, einer Seits, und Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, anderer Seits, von dem Wunsche geleitet, die auf die gegenseitige Behandlung der Schifffahrt bezüglichen Bestimmungen der am 2. April 1824 und 2. März 1841 zwischen Ihnen abgeschlossenen Verträge auf Grund der seitdem eingetretenen Veränderungen Ihrer Schifffahrts-Gesetze weiter auszubilden, haben Verhandlungen zu diesem Zwecke eröffnen lassen und zu Ihren Bevollmächtigten ernannt, nämlich: — — — welche, nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten, die nachstehenden Artikel vereinbart und abgeschlossen haben:

Artikel 1. In Preussen sollen Britische Schiffe und deren Ladungen und in dem Vereinigten Königreiche von Grossbritannien und Irland sollen Preussische Schiffe und deren Ladungen, gleichviel woher die Schiffe kommen oder wohin sie gehen und woher die Ladungen stammen oder wohin sie bestimmt sind, in jeder Hinsicht eben so behandelt werden, als die einheimischen Schiffe und deren Ladungen. ¶ Man ist jedoch darüber einverstanden, dass die vorstehende Bestimmung weder auf die ausschliesslichen Fischerei-Gerechtigkeiten Bezug haben soll, welche den Unterthanen jedes der beiden Länder innerhalb des Seegebietes der letzteren zustehen, noch auf die örtlichen Bevorzugungen, deren sich in Grossbritannien, nicht die Britischen Unterthanen im Allgemeinen, sondern gewisse privilegirte Klassen in einzelnen Häfen erfreuen. ¶ Jede Begünstigung oder Befreiung, welche einer der vertragenden Theile in diesen Beziehungen einer dritten Macht zugestehen möchte, wird gleichzeitig und ohne Bedingung dem anderen zu Theil werden.

Artikel 2. Die in dem vorstehenden Artikel getroffenen Bestimmungen finden auch auf die Colonien und auswärtigen Besitzungen Ihrer Britischen Majestät, sowie auf deren Schiffe nebst Ladungen Anwendung, jedoch, was die Küstenschifffahrt anlangt, nur in denjenigen von diesen Colonien und auswärtigen Besitzungen, deren Küstenschifffahrt in Gemässheit der über den Gegenstand ergangenen Parlaments-Acten fremden Schiffen eröffnet worden ist, oder künftig eröffnet werden möchte.

Artikel 3. Wenn ein Kriegs- oder Handelsschiff eines der vertragenden Theile an den Küsten des anderen strandet oder scheitert, so soll ihm der nämliche Schutz und Beistand, wie einem einheimischen Schiffe geleistet werden. Die Eigenthümer oder deren Bevollmächtigte oder Vertreter sollen für die Sicherung ihres Eigenthums keine anderen Kosten zu zahlen haben, als in dem entsprechenden Falle des Schiffbruchs eines einheimischen Schiffes zu zahlen sein würden. Sollte der Führer eines Handelsschiffes genöthigt sein,

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*) Der Vertrag ist in Deutscher und Englischer Sprache abgefasst, die letztere Redaction aber zur Raumersparniss hier weggelassen.

No. 1996. Preussen und Gross-britannien, 16. Aug. 1865.

einen Theil der Ladung zur Deckung seiner Auslagen zu veräussern, so soll ihm von den Behörden kein Hinderniss in den Weg gelegt werden, er ist indessen zur Beachtung der bestehenden Vorschriften und Tarife verpflichtet. ¶ Die von dem Wrack geborgenen Güter und Waaren sollen von jeder Zollabgabe frei sein, sofern sie nicht in den Verbrauch übergehen. ¶ In Abwesenheit oder auf Ansuchen des Eigenthümers, des Schiffsführers oder eines sonstigen Bevollmächtigten des Eigenthümers sollen die beiderseitigen General-Consuln, Consuln, Vice-Consuln oder Consular-Agenten befugt sein, die Gewährung des erforderlichen Beistandes an die Betheiligten zu vermitteln.

Artikel 4. Den General-Consuln, Consuln, Vice-Consuln und Consular-Agenten jedes vertragenden Theiles, welche in den Gebieten und Besitzungen des anderen ihren Sitz haben, soll von den Orts-Behörden jeder gesetzlich zulässige Beistand zur Herbeischaffung der von den Schiffen ihres Landes desertirten Personen geleistet werden.

Artikel 5. Das Recht des Beitritts zu gegenwärtigem Vertrage bleibt einem jeden, jetzt zum Zoll-Verein gehörenden, oder sich später demselben anschliessenden Staate vorbehalten *).

Artikel 6. Der gegenwärtige Vertrag soll die nämliche Dauer haben, wie der am 30. Mai des laufenden Jahres unterzeichnete Handels-Vertrag zwischen dem Zoll-Verein und Grossbritannien. ¶ Er soll vier Wochen nach dem Austausch der Ratifications-Urkunden in Kraft treten.

Artikel 7. Der gegenwärtige Vertrag soll ratificirt und es sollen die Ratifications-Urkunden binnen sechs Monaten oder, wenn möglich, früher in Berlin ausgewechselt werden. ¶ Zu Urkund dessen haben die beiderseitigen Bevollmächtigten denselben unterzeichnet und ihre Siegel beigedrückt. ¶ So geschehen zu Gastein den 16. August im Jahre des Herrn 1865.

(L. S.) *v. Bismarck.* (L. S.) *Napier.*

No. 1997.

PREUSSEN. — Min. d. Ausw. an die Vertreter bei den Zollvereins-Regierungen. — Die Handelsverhältnisse zu Italien und die Anerkennung des Königreichs Italien betr. —

Berlin, den 31. Mai 1865.

No. 1997. Preussen, 31. Mai 1865.

In meiner Circulardepesche vom 26. d. M. betreffend die Handelsverhältnisse zu Italien habe ich Ew. etc. vorläufig von dem mit der Italienischen Regierung stattgehabten Austausch der Ansichten Mittheilung gemacht. Mit Bezugnahme hierauf beehre ich mich, nach eingegangenen weiteren Nachrichten aus Turin, Folgendes ergebenst zu bemerken. ¶ Die Italienische Regierung hat die verschiedenen Formen, in welchen das Abkommen getroffen werden könnte, erwogen, und nach dem Ergebniss dieser Erwägung die Form eines Handelsvertrages mit dem Zollverein als die für Italien allein annehmbare bezeichnet; die

*) No. 1851.

No. 1997. Preussen, 31. Mai 1865.

gedachte Regierung glaubt auf den von uns angeregten Vorschlag, durch zu vereinbarendes Protokoll einen *modus vivendi* herzustellen, nicht eingehen zu können, sondern nur auf einen Vertrag, welcher die Anerkennung entweder zur Vorbedingung oder im Gefolge haben müsse, im letzteren Falle also der Art, dass die Ausführung an die Anerkennung gebunden sei. Das Cabinet von Turin hält es mit seiner Würde und mit seiner Stellung im eigenen Lande nicht für vereinbar, das Abkommen mit dem Zollverein in anderer Form abzuschliessen, als solches mit England, Frankreich und anderen Staaten geschehen sei; es hat namentlich darauf hingewiesen, dass das Parlament in keinem Falle seine Genehmigung zur Ausführung eines Abkommens mit Staaten geben würde, welche Italien nicht anerkennen und doch Vortheil aus ihm ziehen wollten, und dass die Regierung es nicht auf sich nehmen könne, mit einem dahin gehenden Vorschlage vor das Italienische Parlament zu treten. ¶ Die vorstehend dargelegte Ansicht der Italienischen Regierung findet ihre Bestätigung in einer Note, welche Graf Barral mir in diesen Tagen übergeben hat, und die ich abschriftlich beilege. ¶ Die Bedeutung und Wichtigkeit der Handelsbeziehungen des Zollvereins zu Italien ist unverkennbar; es gehen uns täglich Berichte zu, welche beklagen, dass die commerciellen Verbindungen mit jenem Lande im Abnehmen seien, und welche darauf dringen, dass zur Vorbeugung weiteren Verfalles derselben auf die Gleichstellung der vereinsländischen Erzeugnisse bei der Einfuhr in Italien mit den Erzeugnissen der meistbegünstigten Nationen ohne Zögern hingewirkt werden möge. Die Erzeugnisse concurrirender Länder nehmen den Markt in Beschlag, und es ist mit Grund zu besorgen, dass ein Vorgang sich wiederhole, welcher sich in Spanien zugetragen hat, wo noch jetzt die Folgen der früheren, aus dem Mangel staatlicher Anerkennung entsprungenen Hemmungen des Verkehrs für den Handel und Gewerbfleiss des Zollvereins fühlbar sind. Ich darf mich für heut enthalten, hier näher auf die Darlegung der materiellen Nachtheile einzugehen, und es wird einer näheren Begründung derselben auch kaum bedürfen; inzwischen behalte ich mir vor, eine noch in der Ausarbeitung begriffene Zusammenstellung darüber zu Ihrer gefälligen Kenntniss zu bringen ¶ Aus obigen Bemerkungen ergiebt sich, in wie dringender Weise für alle Zollvereins-Staaten die Nothwendigkeit obwaltet, die gesammte Lage der Sache in sorgsame Erwägung zu nehmen und die Frage nach allen Richtungen einer eingehenden Berücksichtigung und Prüfung zu unterziehen. ¶ Ew. Wohlgeboren etc. wollen sich darüber gefälligst äussern, auch wenn es gewünscht wird, Abschrift gegenwärtiger Depesche mittheilen und dabei die obige Note des Grafen Barral übergeben. ¶ Ueber die Aufnahme dieser Eröffnung bitte ich demnächst um gefällige Anzeige.

v. Bismarck.

No. 1998.

ITALIEN. — Ges. in Berlin an den Kön. Preuss. Min. d. Ausw. — Bereitwilligkeit der Italien. Regierung zum Abschluss eines Handelsvertrags mit dem Zollverein, jedoch unter der Bedingung der Ratification eines förmlichen Vertrags. —

No. 1998. Italien, 22. Mai 1865.

Monsieur le président, — Mon gouvernement, auquel je m'étais empressé de faire connaître le désir qu'aurait le cabinet de Berlin d'améliorer les rapports commerciaux entre le Zollverein et l'Italie, vient de me charger d'informer Votre Excellence que, de son côté, il est tout disposé à accueillir favorablement un projet dont la réalisation doit apporter de si grands avantages à la prospérité commerciale des deux pays. Toutefois, le gouvernement italien, tout en étant prêt à accorder à l'Allemagne le traitement de la nation la plus favorisée, fondé sur le principe de la plus parfaite réciprocité et rentrant dans le système des traités passés avec la France et la Belgique, regarde comme indispensable à tous les points de vue que les accords à intervenir consistent en un traité formel que ratifieraient les membres du Zollverein. ¶ C'est là une manière de voir aussi bien qu'une condition indispensable dont il ne saurait se départir; et c'est seulement sur cette base qu'il pourra conclure avec le Zollverein des conventions commerciales que dans l'intérêt de l'Allemagne comme de l'Italie il sera heureux de voir aboutir. ¶ Veuillez agréer, etc.

Berlin, le 22 mai 1865. *C. de Barral.*

A. S. Exc. M. de **Bismarck-Schönhausen.**

No. 1999.

SACHSEN. — Min. d. Ausw. an den Kön. Geschäftsträger in Berlin. — Vorschläge über die Art und Weise des Abschlusses eines Handelsvertrags mit Italien, mit Bezug auf die Preussische Circulardepesche v. 31. Mai 1865. —

Dresden, 20. Juni 1865.

No. 1999. Sachsen, 20. Juni 1865.

Hr. v. d. Schulenburg hat mir die hier in Abschrift anliegende, seitdem auch veröffentlichte Circulardepesche seiner höchsten Regierung, die Handelsverhältnisse zwischen dem Zollverein und Italien betreffend, und zugleich die ebenfalls hier in Abschrift angeschlossene Note des Grafen Barral mitgetheilt. ¶ Ich bin nun zwar in der Lage gewesen, dem Herrn Gesandten unsere Anschauung über die hiermit angeregten Fragen im allgemeinen darzulegen; auch bin ich der Meinung, dass die Verhältnisse nicht so gestaltet sind, dass eine alsbaldige Beschlussziehung unter den Staaten des Zollvereins in nahe Aussicht zu nehmen sei. Inzwischen glaube ich den der Königlich Preussischen Regierung schuldigen Rücksichten auch durch eine schriftliche Erwiderung genügen zu sollen. ¶ Die uns vorliegende Depesche hebt die Bedeutung und Wichtigkeit der Handelsbeziehungen des Zollvereins zu Italien hervor, sie weist auf die Nothwendigkeit hin, einer weitern Beeinträchtigung derselben und zwar durch Gleich-

No. 1999. Sachsen, 20. Juni 1865.

stellung der vereinsländischen Erzeugnisse bei der Einfuhr in Italien mit den Erzeugnissen der meistbegünstigten Nationen vorzubeugen, und indem sie gleichzeitig auf Erklärungen des Turiner Cabinets Bezug nimmt, welches ein Abkommen als für dasselbe unannehmbar mit Staaten bezeichnet habe, die Italien nicht anerkennen, schliesst sie mit der Aufforderung, die gesammte Lage der Sache in sorgsame Erwägung zu nehmen und die Frage nach allen Richtungen einer eingehenden Prüfung zu unterziehen. ¶ Wie sehr die diesseitige Regierung die materiellen Interessen nicht allein des eigenen Landes, sondern auch des gesammten Zollvereins bei den Erwägungen einschlagender Fragen in den Vordergrund zu stellen gewohnt ist, darüber wird das von ihr gelegentlich des Französischen Handelsvertrags und der Erneuerung der Zollverträge beobachtete Verfahren der Königlich Preussischen Regierung wohl kaum einen Zweifel gestattet haben. Auch bei gegenwärtigem Anlass verschliesst sie sich keineswegs einer gleichen Betrachtung. Sie erkennt die Wichtigkeit der Handelsbeziehungen des Zollvereins zu Italien an und sie theilt die Ansicht, dass es in hohem Grade wünschenswerth sei, die vereinsländische Ausfuhr nicht vom dortigen Markt verdrängen zu lassen. Insofern nun aber der Erledigung der, wie uns preussischerseits entgegengehalten wird, von der Turiner Regierung vorangestellten Präjudicialfrage Schwierigkeiten entgegenstehen, welche der Königlich Preussischen Regierung nicht unbekannt sind und auf welche ich weiterhin zurückkommen werde, so drängt sich zuerst die Frage auf, ob wirklich, wie es nach dem Preussischen Erlass den Anschein gewinnen möchte, nur ein einseitiges Bedürfniss, nämlich von unserer Seite, und nicht vielmehr ein gegenseitiges stattfindet. Gewiss würde es für den Zollverein fühlbare Uebelstände zur Folge haben, käme ein Handelsvertrag oder auch nur eine Verständigung über die gegenseitige Behandlung auf dem Fusse der meistbegünstigten Nationen nicht zu Stande. Es würde, um nur auf Eine Folge dieses Zustandes hinzuweisen, für den Zollverein, um sich gegen die indirecte Einfuhr Italienischer Waaren über andere Länder, mit denen Verträge bestehen, zu sichern, die Erforderung von Ursprungscertificaten wenigstens von allen solchen Waaren anderer Länder sich nothwendig machen, welche in gleicher Beschaffenheit auch in Italien erzeugt werden. Allerdings würde diese Massregel mit allerhand Schwierigkeiten und Belästigungen nicht nur für die Zollbehandlung, sondern auch für Handel und Verkehr verbunden sein. ¶ Ganz dieselben Nachtheile würden dann aber auch für Italien eintreten, und es würde schwer sein, im voraus zu ermessen, auf welcher Seite der Nachtheil grösser und daher der Anreiz zum Entgegenkommen dringender sein werde. Der Export Italiens nach Deutschland ist geringer als der unserige nach Italien, er besteht überwiegend aus Naturproducten, die wenig Concurrenz haben, bei denen also der höhere Zoll von den Consumenten im Zollverein bezahlt werden wird; der Zollverein dagegen führt fast nur Manufacte nach Italien aus, wobei er mit England, Frankreich und der Schweiz concurrirt, so dass allerdings dort die Erhebung höherer Eingangszölle zur Ausschliessung unserer Waaren führen kann. Allein das Verhältniss dürfte sich anders hinsichtlich der Nachtheile gestalten, die aus der Einführung von Ursprungscertificaten entstehen müssen. Hier scheint der Nachtheil auf Seiten Italiens grösser

zu sein, als auf Seiten des Zollvereins, weil jenes genöthigt sein würde, fast für alle Manufacturwaaren Englands, Frankreichs und der Schweiz solche Certificate vorzuschreiben und daher den Druck von aussen, zum Behufe der Aenderung des Systems, jedenfalls ein sehr bedeutender sein würde. Geht schon hieraus hervor, dass beide Theile ein sehr grosses Interesse daran haben, sich gegenseitig wie alle anderen Nationen zu behandeln und keine Ausnahmestellung gegeneinander einzunehmen, so sollte auch die Erwartung als eine berechtigte erscheinen, dass beide Theile, je dringender das Bedürfniss eines Abkommens sich darstellt, um so geneigter sein werden, sich über eine Form zu verständigen, welche politische Schwierigkeiten überwindet, deren alsbaldige Beseitigung nach der Ansicht der diesseitigen Regierung nicht in der Hand einer einzelnen Zollvereinsregierung und nicht einmal in der des gesammten Zollvereins liegt. ¶ Der Deutsche Bund ist allerdings eine Vereinigung souveräner Fürsten und Freier Städte und es könnte hiernach in Ermangelung einer entgegenstehenden präcisen Vorschrift der Bundes-Grundgesetze fraglich erscheinen, ob einer souveränen Bundesregierung die Freiheit abzusprechen sei, nach eigenem Belieben eine auswärtige Regierung in Fällen der vorliegenden Art, ohne Rücksicht auf die Entschliessung des Bundes und unerwartet derselben anzuerkennen. Mag aber diese Frage vom Standpunkte des Bundesrechts betrachtet eine zweifelhafte sein, so vermöchte die diesseitige Regierung jene Freiheit immerhin mit einer praktischen Auffassung des Bundesverhältnisses nicht wohl für vereinbar zu erachten. Die besondere Stellung, welche Oesterreich und Preussen als europäische Mächte einnehmen, begründet eine zwar dem Bunde nicht förderliche, aber darum nicht minder feststehende Ausnahme. Um so weniger sind die übrigen Bundesglieder, die nicht gleiches Sonderverhältniss zur Seite haben, in der Lage, ihre eigene Action von der des Bundes zu trennen. Es ist gerade ihr Zusammengehen und ihre Vereinigung durch die Beschlüsse des Gesammtorgans, welche noch ein Gegengewicht gegen die Sonderstellung der beiden Grossmächte darbieten und verhindern, dass der Bund sich in vereinzelten Handlungen seiner Glieder abschwächt und schliesslich auflöst. Den beiden Mächten selbst muss, so scheint uns, daran gelegen sein, dass diese Auffassung Geltung behaupte, welche ihnen die in Bezug auf den Bund ihnen zugefallene Aufgabe erleichtert und ihnen die Aussicht sichert, unter Umständen an demselben eine wirkliche Unterstützung zu finden. Soweit unsere Erinnerungen zurückreichen, waren auch bei frühern Conjuncturen ähnlicher Art die Anschauungen und Einwirkungen beider Mächte in dieser Richtung bemerkbar. In Uebereinstimmung damit haben auch, beispielsweise, die einzelnen Deutschen Regierungen ihre Anerkennung des zweiten Französischen Kaiserreichs unter der Napoleonischen Dynastie erst dem entsprechenden Beschlusse der Bundesversammlung nachfolgen lassen; nicht minder sind dieselben in diplomatische Beziehungen zu dem Königreich Belgien erst dann getreten, nachdem der Bund die zwischen diesem Königreich und dem Königreich der Niederlande zu Stande gebrachten Auseinandersetzungen anerkannt hatte. Man könnte vielleicht den Vorgang der durch den Londoner Vertrag von 1852 bewirkten Umgestaltung der Dänischen Thronfolge anziehen, welcher verschiedene Deutsche Regierungen, unter ihnen

No. 1999. Sachsen, 20. Juni 1865.

die diesseitige (letztere jedoch unter ausdrücklichem Vorbehalt der Bundesentscheidung) zustimmten. Abgesehen jedoch davon, dass es sich hierbei nicht um das Anerkenntniss vollendeter Thatsachen handelte, so dürfte gerade die mit jenem vereinzelten Vorgehen gemachte Erfahrung am wenigsten geeignet sein, den Deutschen Regierungen diesen Vorgang als einen massgebenden erscheinen zu lassen. ¶ Dass aber der gegenwärtig vorliegende Fall so beschaffen sei, um eine Rücksichtnahme auf die zurückstehende Entschliessung des Bundes den Deutschen Regierungen weniger nahe zu legen, dafür dürften die damit verbundenen Umstände nicht eben sprechen. Während in frühern Fällen es sich wesentlich um rein innere Umgestaltungen handelte, oder um eine Losreissung mit schliesslicher Einwilligung des frühern Landesherrn, kommt hier die Besitzergreifung von Ländern ohne diese Zustimmung in Betracht, und während in frühern Fällen die neu eingetretene Regierung die Anknüpfung der Verbindungen mit dem Auslande, mit der erklärten Absicht friedlicher Beziehungen zu ihren Nachbarn eröffnete, tritt hier der eigenthümliche Umstand ein, dass die Absicht einer Gebietserweiterung und zwar auf Kosten eines Mitglieds des Bundes zwar nicht officiell verkündet, aber auch nicht in Abrede gestellt wird. Es sind dies Momente, welche hier nur zu dem Zwecke angedeutet werden sollen, um daran zu erinnern, dass für den Bund, falls er der Frage der Anerkennung näher treten sollte, wichtige Erwägungen in Aussicht stehen, denen vorzugreifen wenigstens die diesseitige Regierung sich nicht für berufen halten würde. ¶ Dass das Turiner Cabinet diese Lage der Dinge selbst nicht zu würdigen wissen sollte, vermögen wir um so weniger anzunehmen, als die uns mitgetheilte Note des Grafen Barral selbst es vermeidet, von einer Anerkennung zu sprechen, und nur die Ratification eines förmlichen Vertrags beansprucht, ein Verlangen, womit wohl nicht das letzte Wort gesprochen sein dürfte, und welches überdies, im Hinblick auf den Vorgang der Pariser Telegraphenconvention und deren allseitige Ratification als gleichbedeutend mit der Forderung der Anerkennung nicht wohl betrachtet werden kann. ¶ Sollten wir uns indessen in dieser Voraussetzung täuschen und sollten, wie wir mit mehr Sicherheit annehmen dürfen, anderseitige Erklärungen die gestellte Frage wenigstens für jetzt entschieden verneinen, so blieben immer noch zwei denkbare Auswege. ¶ Entweder beide Theile erklären, jeder selbständig für sich, dass er seinen neuen Tarif auch dem andern Theile gegenüber gelten lassen wolle, wenn und so lange dieser ihn den meistbegünstigten Nationen gleichstellt, oder der Zollverein generalisirt einfach seinen neuen Tarif und lässt es darauf ankommen, was Italien thun will. Geht die dortige Regierung auf den ersten Theil der Alternative ein, so wäre dies allerdings das Erwünschteste, da dann auch der diesseitige Export nach Italien gleichzeitig sichergestellt würde. Geht sie aber nicht darauf ein, eine derartige Zusicherung zu ertheilen, so würden wir uns dafür aussprechen, dass dann der Zollverein seinen neuen Tarif generalisire, ohne Italien auszunehmen, und das Weitere der Zukunft überlasse. Wir würden damit Italien gegenüber in ein ähnliches Verhältniss wie zu Russland treten. Auch mit letzterm wird voraussichtlich der Abschluss eines Handelsvertrags nicht möglich sein, und dennoch lässt der Zollverein seinen neuen Tarif ihm gegenüber in Wirksamkeit treten.

¶ Thun wir dies Italien gegenüber ebenfalls und verlangen wir von keinem andern Staate wegen des Verhältnisses zu Italien Ursprungscertificate, so wird Italien nicht lange im Stande sein, uns gegenüber ein anderes System zu beobachten, da ihm die Aufrechthaltung eines Differentialzollsystems gewiss nicht auf lange Zeit möglich sein möchte. ¶ Ew. etc. wollen gegenwärtigen Erlass zur Kenntniss des Hrn. Ministerpräsidenten v. Bismarck bringen und sind ermächtigt, auf desfallsigen Wunsch Abschrift zu hinterlassen. *Beust.*

No. 1999. Sachsen, 20. Juni 1865.

No. 2000.

SACHSEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Bereitwilligkeit zur Ratification eines Handelsvertrags mit Italien. —

Dresden, 10. November 1865.

No. 2000. Sachsen, 10. Nov. 1865.

Ew. etc. kennen die Eröffnungen, welche die Königl. Preussische Regierung ihren Zollverbündeten bezüglich des Abschlusses eines Handelsvertrags mit Italien unterm 31. Mai d. J. zugehen liess, nicht minder die Erwiderung, welche diesseits mittelst eines an die Königl. Gesandtschaft unterm 20. Juni gerichteten Erlasses*) erfolgte. ¶ Die Königliche Regierung nahm damals nicht Anstand, die Bedeutung der handelspolitischen Beziehungen des Zollvereins zu Italien, so wie die Nothwendigkeit anzuerkennen, der vereinsländischen Industrie den dortigen Markt zu sichern. Im Hinblick jedoch auf die Schwierigkeiten, welche einer alsbaldigen Lösung der damit in Zusammenhang gebrachten politischen Frage mehrseits entgegenstanden, glaubte die diesseitige Regierung zunächst einen Weg bezeichnen zu sollen, auf welchem das ins Auge gefasste Ziel, sofern dieser Weg mit Entschiedenheit betreten würde, ihrer Ueberzeugung nach ebenfalls zu erreichen sein werde. ¶ Während indessen dieser ihr Vorschlag den gewünschten Anklang nicht gefunden hat, sind der Königl. Regierung Seitens der hierländischen Handelskammern und sonstigen commerciellen und industriellen Genossenschaften zahlreiche und übereinstimmende Vorstellungen zugegangen, welche in ebenso gründlicher als objectiver Weise die Dringlichkeit des Abschlusses eines Handelsvertrags mit Italien darlegen. ¶ Getreu dem in jenem Erlasse ausgesprochenen Grundsatze, in Fragen dieser Art die materiellen Interessen des Landes in den Vordergrund zu stellen, erachtet daher die Königliche Regierung es an der Zeit, bei der Königlich Preussischen Regierung jenen Abschluss in Anregung zu bringen. Ew. etc. habe ich daher hierzu mit Auftrag zu versehen, indem ich Sie zugleich ermächtige, zu erklären, dass, sofern der abgeschlossene Handelsvertrag, wie wir nicht bezweifeln, in materieller Hinsicht zu keinen Ausstellungen Anlass giebt, dessen Ratification hierseits in derjenigen Fassung erfolgen werde, welche der Italienischen Regierung genehm ist. ¶ Ew. etc. wollen vorstehenden Erlass zur Kenntniss des Herrn Ministerialpräsidenten Grafen v. Bismarck bringen, auch Abschrift davon hinterlassen. *Beust.*

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*) No. 1999.

No. 2001.

SACHSEN. — Min. d. Ausw. an den Kön. Bundestagsgesandten in Frankfurt. — Gründe, weshalb die Entscheidung über den mit Italien abzuschliessenden Handelsvertrag nicht dem Bunde anheimgestellt werden konnte. —

Dresden, 21. November 1865.

No. 2001. Sachsen, 21. Nov. 1865.

Ew. etc. habe ich bereits durch meine Depesche v. 17. d. M. von den Eröffnungen in Kenntniss gesetzt, welche ich bezüglich des Abschlusses eines Handelsvertrags zwischen dem Zollverein und Italien unter dem 10. d. M. nach Berlin gelangen liess. Zugleich setzte ich Ew. etc. in den Stand, bei gegebener Gelegenheit über die einschlagende, hierorts früher angeregte Frage der Bundescompetenz sich zu äussern. Anderweite Erwägungen lassen es uns jedoch wünschenswerth erscheinen, dass in diesem Betreff unsrerseits eine officielle Kundgebung erfolge. ¶ Wir sind dessen wohl erinnert, wie in einem vor die Oeffentlichkeit gekommenen diesseitigen Erlass die Ansicht vertreten wurde, es sei, wenn auch nicht nach den ausdrücklichen Bestimmungen der Bundesgrundgesetze, doch bei einer praktischen Auffassung der Bundesverhältnisse und mit Rücksicht auf frühere Vorgänge angemessen, dass da, wo es sich um Anerkennung von Veränderungen handelt, die im Gegensatze zu bestehenden Europäischen Verträgen eingetreten sind, der Bund zu beschliessen habe, bevor die einzelnen Bundesstaaten, sofern sie nicht gleichzeitig die Stellung Europäischer Grossmächte einnehmen, damit vorgehen. Wir halten diese Auffassung noch heute für eine sehr berechtigte, und es können dereinst noch Ereignisse eintreten, welche geeignet sind, deren praktischen Werth anschaulich zu machen. Die Königlich Sächsische Regierung hat, wie sie sich schmeicheln darf, mehr als einmal bewiesen, dass sie sich, namentlich in Fragen der äussern Politik, dem Bunde unterzuordnen gewohnt ist. Diese Entäusserung des eigenen selbständigen Handelns kann aber vor dem eigenen Lande nur dann gerechtfertigt erscheinen, wenn der Bund durch sein Organ, die Bundes-Versammlung, einen bestimmenden Willen äussert. In Ermangelung einer solchen Beschlussnahme und wo nur die unsichere und gar unwahrscheinliche Möglichkeit derselben in Aussicht gestellt bleibt, kann den einzelnen Bundesstaaten — sofern nicht eine ausdrückliche Vorschrift der Bundesgrundgesetze ihnen die Enthaltung zur Pflicht macht — nicht zugemuthet werden, diejenigen Entschliessungen zu beanstanden, zu denen das Interesse des eigenen Landes sie auffordert. Die Anregung, welche in jenem Erlass der diesseitigen Regierung gegeben war, hat keine Folge gehabt. Es sind uns deshalb zustimmende Erklärungen von keiner Seite zugekommen, von einigen Seiten her ist unserer Absicht sogar widersprochen worden. Dass wir Anstand nahmen, eine Entscheidung der Frage bei der Bundesversammlung selbst anzuregen, dafür wird man die Erklärung in Rücksichten finden, welche diejenige hohe Regierung, die unser jetziges Vorgehen vielleicht unwillkommen zu finden Ursache haben kann, am meisten, wie wir glauben, zu würdigen wissen wird. Dennoch hätten wir gern, um jede dem Bunde schuldige Rücksicht zu wahren, Anlass genommen,

die Bundesversammlung wenigstens in der Art zu begrüssen, dass wir sie um einen Ausspruch darüber ersucht hätten, ob die einzelnen Regierungen verpflichtet seien, in derartigen Fragen eine Entscheidung des Bundes abzuwarten. Da indessen eine längere Verzögerung mit den Gründen, die für uns besage der nach Berlin gerichteten Eröffnung bestimmend waren, nicht verträglich gewesen wäre, so durften wir freilich nicht ausser Berechnung lassen, dass wir solchenfalls eine Verweisung an einen Ausschuss und damit einen Aufschub und Zeitverlust zu gewärtigen hatten, den wir vor dem eigenen Lande nicht zu verantworten vermocht und wodurch wir überdies uns dem Anschein einer absichtlichen Verschleppung ausgesetzt gesehen haben würden, dafern wir nicht schliesslich auf ein Abwarten der provocirten Entscheidung zu verzichten und damit den Vorwurf einer Rücksichtslosigkeit gegen die Bundesversammlung auf uns zu nehmen uns entschlossen hätten. ¶ Ich habe nun Ew. etc. zu beauftragen, gegenwärtigen Erlass zur Kenntniss des Herrn Bundespräsidial-Gesandten zu bringen, auch, wenn dies gewünscht wird, eine Abschrift desselben zu hinterlassen, und dabei dem Ermessen Sr. Excellenz anheimzustellen, ob davon der Bundesversammlung eine Mittheilung gemacht werden soll oder nicht.

No. 2001. Sachsen, 21. Nov. 1865.

Beust.

No. 2002.

SPANIEN. — Der Staatsmin. an den Kön. Botschafter in Rom. — Bericht über eine Unterredung mit dem Päpstlichen Nuntius in Madrid, betr. die Nothwendigkeit der Anerkennung des Königreichs Italien durch Spanien. —

Madrid, 26 juin 1865.

No. 2002. Spanien, 26. Juni 1865.

Les dépêches télégraphiques et la circulaire qu'en date du 22 de ce mois j'ai adressée aux agents diplomatiques de l'Espagne à l'étranger vous ont fait connaître que S. M. la reine avait daigné accepter la démission du cabinet présidé par le duc de Valence, en nommant en son remplacement un autre cabinet présidé par le duc de Tétouan, et dans lequel j'ai l'honneur de remplir les fonctions de ministre d'État. Vous avez vu également dans les discours prononcés par le président du conseil aux Cortès, dont je vous envoie copie, le programme de la politique que le ministère se propose de suivre, et je crois inutile d'appeler votre attention éclairée sur l'importance de la déclaration par laquelle le gouvernement annonce qu'il juge le moment venu d'adopter une résolution à l'égard des affaires d'Italie. ¶ En conséquence, j'ai profité de l'occasion que m'offrait la réception officielle du corps diplomatique pour conférer avec S. E. le nonce apostolique, et lui expliquer avec soin les intentions et la pensée du gouvernement. Entrant immédiatement dans la discussion de l'affaire, j'ai dit à Mgr. Barili que sa résidence déjà longue à Madrid lui avait sans aucun doute démontré l'impossibilité de continuer indéfiniment une politique qui n'était pas conforme à l'esprit des institutions qui nous régissent et à l'opinion publique qui se forme sous leur protection, lui indiquant de plus les inconvénients qui pour-

No. 2002. Spanien, 26. Juni 1865. raient résulter pour le pays de la persistance dans certaines idées qui ne pouvaient qu'être exploitées par les partis radicaux. Je lui ai exposé que dans cette catégorie se trouvait l'état anormal de nos relations avec l'Italie, qui était devenu un champ de bataille dont s'étaient emparés les partis extrêmes pour agiter le pays. ¶ Je lui ai représenté que l'Espagne, pour la défense du saint père et par sympathie pour de grandes infortunes, avait différé pendant des années entières la solution de cette affaire, par quoi son gouvernement s'était exposé à de rudes attaques, et s'était volontairement isolé du concert européen, dans l'espérance qu'un arrangement entre les parties intéressées ou un accord entre les puissances européennes donnerait une solution définitive aux affaires d'Italie. Cette espérance ne s'est pas réalisée jusqu'à présent, malgré notre plus ardent désir, et le gouvernement de Sa Majesté aurait d'autant moins de raisons de persévérer dans cette ligne de politique, que le temps et le cours des événements ont démontré qu'elle est non-seulement stérile, mais contraire au but qu'elle se proposait. Ni les dangers d'une conduite fortement attaquée à l'intérieur, ni, à l'extérieur, les inconvénients d'un isolement systématique des grandes nations du monde, qui, sauf une seule et naturelle exception, ont reconnu le royaume d'Italie, ne se trouveraient compensés par la certitude ni même par l'espoir de contribuer au rétablissement des souverains déchus ou à la restauration complète du pouvoir temporel du Saint-Siége. ¶ La base de notre politique a été et devait être nécessairement la neutralité; mais la continuation de notre isolement nuirait à l'Espagne sans être utile au pape ni aux princes pour les malheurs desquels nous avons montré de si publiques et si constantes sympathies. J'ai dit, de plus, au nonce de Sa Sainteté qu'ainsi que tous les Espagnols, et à l'exemple de leur reine, les ministres professaient pour le Saint-Père, chef visible de l'Église, la plus profonde vénération, et ressentaient pour son auguste personne le respect et l'admiration qu'inspirent ses malheurs, sa constance et ses vertus; qu'en déplorant ses tribulations et l'impossibilité où ils se trouvent d'y porter remède, ils ne pouvaient se dissimuler que pour être utile un jour aux intérêts sacrés et permanents de la papauté, il était indispensable que l'Espagne renouât ses relations politiques avec le royaume d'Italie, rentrant dans le concert européen, et se mettant ainsi à même de faire entendre sa voix et d'employer, en faveur de l'indépendance et de la dignité du Saint-Siége, l'influence que les circonstances pourraient lui donner. De cette manière, on parviendrait à concilier la nécessité de mettre un terme à une situation difficile, avec l'intérêt que nous inspire tout ce qui a rapport au chef visible de l'Église. ¶ J'ajoutai aussi qu'en traitant avec l'Italie, et rétablissant avec ce nouvel État d'anciennes et indispensables relations, le gouvernement de Sa Majesté n'entendait point approuver les faits passés, ni amoindrir la valeur que peuvent avoir les protestations faites contre eux par la cour de Rome. ¶ Réservant dans la question d'Italie tous ses droits, mais ayant égard aux intérêts de l'Espagne, le gouvernement de Sa Majesté ne fait autre chose que suivre l'exemple de presque toutes les nations catholiques du monde. Et quand le Saint-Siége, dans sa haute sagesse et sa profonde prudence, a cru opportun de traiter avec un représentant du roi Victor-Emmanuel pour le règlement de questions religieuses dans le nouveau royaume d'Italie, il

ne peut paraître étrange que l'opinion publique se montre plus décidée à demander que l'Espagne renoue avec ce même royaume d'Italie ses relations politiques. ¶ J'ai dit enfin au nonce de Sa Sainteté que, déterminé par tant de raisons puissantes, le gouvernement croyait indispensable de faire cette démarche, et de commencer dès aujourd'hui les négociations nécessaires avec le cabinet de Florence. ¶ Je venais de donner ce témoignage préalable de respect et de déférence pour le Saint-Siége lorsque le chargé d'affaires du roi Victor-Emmanuel à cette cour, le baron Cavalchini, s'étant présenté à moi, j'ai eu l'occasion de lui annoncer la résolution du gouvernement de Sa Majesté. ¶ En donnant lecture de cette dépêche au secrétaire d'État de Sa Sainteté, et en lui en laissant copie, s'il le désire, c'est la volonté de Sa Majesté que Votre Excellence assure le cardinal Antonelli, et plus particulièrement Sa Sainteté elle-même, que le gouvernement de la reine éprouve les plus profonds sentiments de respect et de vénération pour son autorité sacrée et son auguste personne, et qu'il est décidé à défendre aujourd'hui et toujours, par tous les moyens moraux en son pouvoir, les droits et les intérêts de la sainte institution dont il est le symbole.

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Par ordre royal,
Manuel Bermudez de Castro.

No. 2003.

SPANIEN. — Min. d. Ausw. an den Kön. Ges. in Wien. — Gründe der Anerkennung des Königreichs Italien, in Erwiderung auf eine dagegen remonstrirende Depesche des K. K. Oesterr. Min. d. Ausw. v. 31. Juli 1865. —

Madrid, 3 août 1865.

Excellence, — Le chargé d'affaires d'Autriche m'a donné lecture d'une dépêche qui lui a été adressée à la date du 21 juillet par M. le comte de Mensdorff, et dont, sur ma demande, il m'a laissé confidentiellement copie. Comme cette pièce pourrait bien ne pas vous être connue, je vous la transmets sous la même forme confidentielle. Il est vrai que pendant le dernier ministère, présidé par M. le duc de Tétouan, la politique que le gouvernement de la reine avait suivie vis-à-vis de l'Italie s'est trouvée jusqu'à un certain point en harmonie avec celle de l'Autriche; mais il n'en est pas moins vrai que cette conformité de vue ne provenait pas d'un accord ou de stipulations préalables en vertu desquelles les deux pays se seraient engagés à poursuivre la même politique dans cette question. ¶ L'Espagne et l'Autriche ont pu marcher d'accord tant qu'elles s'y sont trouvées amenées par leurs intérêts respectifs. Mais ni l'une ni l'autre puissance n'avaient perdu sa liberté d'action pour se séparer dans cette question, ainsi que dans toute autre, aussitôt que leurs gouvernements le jugeraient convenable. ¶ Il me serait donc difficile de comprendre sur quelles raisons M. le comte de Mensdorff a pu s'appuyer pour affirmer que le premier acte de ce ministère n'a pas répondu à son attente. Cette assertion ferait supposer un accord préalable qui aurait renfermé dans certaines limites la liberté d'action que le gouvernement de la reine a toujours conservée dans cette affaire, comme dans la conduite générale des relations extérieures. ¶ Les liens d'amitié et de considéra-

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No. 2008. Spanien, 3. Aug. 1865.

tion mutuelle qui unissent l'Espagne et l'Autriche sont nombreux: ils n'ont pu que se resserrer davantage à partir du moment où l'Empereur a pensé qu'il était dans l'intérêt de ses États de modifier les anciennes institutions de l'empire en les remplaçant par d'autres qui présentent une grande analogie avec les nôtres. Il y a aussi plusieurs questions politiques au sujet desquelles les deux gouvernements peuvent se trouver d'accord. Toutefois, il ne serait pas possible d'admettre avec M. le comte de Mensdorff que l'Espagne et l'Autriche ont en Italie des intérêts identiques. ¶ Nous éprouvons une sympathie vive et profonde envers les princes de la famille de Bourbon qui ont perdu leurs États: nous avons attendu pendant quatre ans avant de reconnaître le royaume d'Italie, espérant que des éventualités nouvelles ou un accord des puissances européennes pourraient apporter une solution définitive à une question aussi compliquée; mais lorsque, pendant cette période, le royaume d'Italie s'est consolidé, lorsque les intérêts politiques et matériels de l'Espagne nous ont conseillé de le reconnaître, nous ne pensons pas qu'on puisse jamais faire tourner contre nous une résolution que nous avons prise en consultant avant tout l'intérêt du pays, et en mettant de côté des affections personnelles et des intérêts purement dynastiques qui, du reste, n'affectent pas la famille royale d'Espagne. Cette résolution ne peut servir, au contraire, qu'à constater la sincérité et le désintéressement de notre conduite. ¶ Comme puissance exclusiment catholique, l'Espagne prend un vif intérêt à tout ce qui se rapporte au Saint-Siége, mais cet intérêt, dégagé de toute espèce d'aspirations politiques, s'attache purement et exclusivement au saint-père. Sans douter un seul instant de la juste sollicitude dont l'Autriche se sent animée en faveur du chef surprême de l'Église catholique, il faut reconnaître néanmoins que cette puissance a dans la Péninsule italienne des intérêts d'une autre espèce, et cette considération suffirait à elle seule pour établir que l'identité de vues dont il est question dans la dépêche de M. le comte de Mensdorff n'existe pas. ¶ Je ne pourrais pas non plus accepter l'opinion émise par M. le ministre des affaires étrangères, que la reconnaissance des faits accomplis en Italie ait rendu plus difficile pour l'Espagne la tâche d'élever la voix en faveur du Saint-Siége. Dans la conduite suivie jusqu'à présent par le gouvernement de la reine, une seule chose est positive, c'est que tous nos efforts sont restés jusqu'à présent sans efficacité réelle pour le but que nous nous étions proposé d'atteindre. D'ailleurs, la reconnaissance des faits accomplis n'est point une de ces théories dont la pratique n'ait jamais été essayée. ¶ L'Espagne et l'Autriche ont toujours suivi cette politique; et sans remonter à des époques par trop éloignées, je me bornerai à rappeler que, en 1830 et en 1848, les deux puissances ont reconnu l'ensemble des faits accomplis en France après la chute des deux branches de la famille des Bourbons. ¶ Et nous rapprochant d'une époque plus récente, il ne faut pas oublier que la monarchie italienne a été reconnue par toute l'Europe, sauf de rares exceptions, et que l'Autriche elle-même a sanctionné l'incorporation à l'ancien royaume du Piémont d'une des plus belles provinces du nouveau royaume d'Italie. ¶ Les motifs qui ont guidé notre conduite ayant été développés dans la dépêche adressée à l'ambassadeur de Sa Majesté à Rome, et de nouvelles explications à ce sujet n'étant plus nécessaires, je serais tout disposé à terminer

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ici ma dépêche, s'il était possible de passer sous silence les observations contenues dans la dernière partie de la dépêche de M. le comte de Mensdorff au chargé d'affaires d'Autriche. ¶ Je partage entièrement l'avis de M. le ministre des affaires étrangères de S. M. Apostolique, lorsqu'il fait remarquer qu'il n'y a rien de si délicat que d'émettre son opinion sur la situation intérieure d'une autre puissance. Voici pourquoi je ne me croirais pas autorisé à faire des observations sur la situation intérieure de l'empire d'Autriche. Ainsi, tout en reconnaissant les intentions amicales qui ont guidé M. le comte de Mensdorff, je devrais peut-être m'abstenir de répondre à des appréciations dont le gouvernement de la reine doit rester seul juge. ¶ Toutefois, M. de Mensdorff tient tellement à déclarer que la vive amitié de l'Autriche pour l'Espagne est l'unique cause qui provoque de sa part des réflexions de cette nature, que je crois à mon tour devoir répondre à ces sentiments d'amitié manifestés par ce ministre en le rassurant au sujet des craintes qu'il semble entretenir sur la stabilité du trône de la reine. A cet effet, il suffit de rappeler l'histoire. La reine Isabelle était encore une enfant au berceau lorsque, à la mort de son auguste père le roi Ferdinand VII, elle vit ses droits contestés par un prince usurpateur, à la tête d'un parti fanatique. Abandonné de presque toute l'Europe, le peuple espagnol est parvenu à faire triompher, non-seulement les droits de sa souveraine, mais les institutions qui servaient de base à son trône. Ce sont ces mêmes institutions, où d'autres croient découvrir une cause de grave danger, qui ont été son appui le plus solide au milieu de la grande catastrophe de 1848. ¶ Pendant cette époque, qui a laissé dans l'Europe entière de si pénibles souvenirs, le trône de la reine n'a pas été un seul instant en péril, et aucun sacrifice personnel ne fut nécessaire pour sauver les institutions monarchiques. L'Espagne a traversé tranquillement cette épouvantable crise, et, grâce aux institutions dont il était entouré, son trône est demeuré ferme au milieu de la tourmente qui mit au bord de l'abîme d'anciennes monarchies qui se jugeaient inébranlables. ¶ D'après l'opinion du gouvernement de Sa Majesté, ces institutions, que l'Autriche elle-même a fini par établir chez elle; cette union intime existante entre la couronne et ses sujets, feraient triompher encore une fois le trône de la reine, si de nouveaux dangers venaient le menacer. Mais ces dangers n'existent point, et le gouvernement de Sa Majesté est sûr que la politique libérale et conservatrice qu'il poursuit suffit pour les écarter. Une pareille ligne de conduite, adoptée en temps utile, aurait probablement sauvé les souverains qui régnaient naguère en Italie. ¶ En s'exprimant dans ce sens avec M. le comte de Mensdorff, Votre Excellence voudra bien lui faire connaître combien je regrette que la politique inaugurée par le gouvernement de Sa Majesté dans la question d'Italie ne se trouve pas d'accord avec celle que l'Autriche, par des raisons que je respecte, juge à propos de suivre. J'aime à croire que malgré cette dissidence dans notre manière de considérer cette question, les rapports entre les deux États continueront à être aussi intimes et amicaux que par le passé.

M. Bermudez de Castro.

A Mr. Ayllon, etc. *Vienne.*

No. 2004.

SPANIEN. — Min. d. Ausw. an die Kön. diplomat. Agenten im Auslande. — Die Gründe der Anerkennung des Königreichs Italien durch Spanien und die von Oesterreich dagegen erhobenen Vorstellungen betr. —

Madrid, 20 septembre 1865.

No. 2004. Spanien, 20. Sept. 1865.

Monsieur, la Presse de Vienne, ainsi qu'un ou deux journaux de Paris, se sont livrés à des commentaires au sujet d'une dépêche que M. le comte de Mensdorff a adressée à M. le chargé d'affaires d'Autriche à Madrid, et dont cet agent m'avait donné lecture. ¶ Tandis que quelques journaux ont considéré cette dépêche comme étant une protestation formelle contre la reconnaissance de l'Italie par l'Espagne, le Mémorial diplomatique s'efforce de l'interpréter comme une mesure adoptée par le cabinet de Vienne dans le but de délier la politique autrichienne de toutes les conséquences que pourrait entraîner l'attitude prise par l'Espagne et l'Autriche en vertu des notes simultanées remises par leurs agents au gouvernement français le 28 mai 1864. ¶ Ces deux appréciations sont inexactes; afin de vous éclairer sur toutes les circonstances qui se rapportent à cette affaire, et pour vous guider dans les conversations que vous pourriez avoir à ce sujet avec M. le ministre des affaires étrangères et les membres du corps diplomatique, je crois convenable de vous donner connaissance des antécédents qu'il convient de ne pas oublier dans le cas dont il s'agit. ¶ La coïncidence dans la remise des deux notes rappelées par le Mémorial diplomatique, et même l'accord avec lequel l'Espagne et l'Autriche ont agi à cette époque n'ont pu créer aucune espèce d'engagement entre les deux gouvernements et encore moins auraient-ils pu établir d'une manière expresse ou tacite un pacte quelconque qui aurait liè leur action politique. L'Espagne comme l'Autriche restèrent en parfaite liberté pour agir à l'avenir comme le leur conseillerait leur intérêt respectif, sans aucun lien qui les empêchât de prendre dans cette question telle attitude qui répondrait le mieux à leurs vues politiques. ¶ Il n'existe donc pas de motif qui rende nécessaire de mettre à couvert la responsabilité de l'Autriche dans les conséquences de la nouvelle position où l'Espagne vient de se placer, puisque les démarches faites auprès du gouvernement français en 1861, non-seulement sont demeurées stériles, mais encore n'ont pu créer, comme je viens de l'indiquer, aucune espèce d'engagement pour la politique ultérieure des deux pays. ¶ Je dois penser que c'est ainsi que le cabinet autrichien l'a compris, puisque, dans la communication adressée par M. le comte de Mensdorff au chargé d'affaires à Madrid, il n'est fait aucune allusion directe, ni même indirecte, aux démarches de 1861. ¶ La décision prise de reconnaître le royaume d'Italie ayant été annoncée par le gouvernement de la reine, et cette décision ayant été communiquee au cabinet de Vienne par la remise que le représentant de l'Espagne a faite à M. le comte de Mensdorff d'une copie de la dépêche que j'avais adressée, à la date du 26 juin dernier*), à l'ambassadeur de Sa Majesté à Rome, le ministre

*) No. 2002.

des affaires étrangères de l'empereur a jugé convenable d'adresser au chargé d'affaires d'Autriche à Madrid une dépêche dont il m'a donné lecture et qui a motivé les commentaires de la presse dont je viens de faire mention. ¶ Dans cette dépêche, M. le comte de Mensdorff faisait observer que la première manifestation de la politique du cabinet présidé par le duc de Tétouan n'avait pas répondu à l'attente du gouvernement autrichien; qu'il voyait avec peine l'intention de l'Espagne de modifier son attitude dans la question d'Italie, question sur laquelle M. le comte de Mensdorff se plaisait à croire qu'il existait une identité d'intérêts entre les deux pays; que, malgré les réserves dont avait été entourée la reconnaissance de l'Italie par l'Espagne, ce fait suffirait à lui seul pour placer le gouvernement espagnol vis-à-vis de la question de Rome, sur un terrain tellement différent de celui occupé par le gouvernement autrichien, que leur coopération ultérieure, dans une affaire aussi importante pour les deux nations, deviendrait beaucoup plus difficile; que si le gouvernement espagnol pensait qu'en renouant ses relations avec l'Italie, il se plaçait dans une situation qui lui permettait de faire entendre sa voix et d'exercer son influence en faveur du pontificat, le gouvernement impérial croyait que c'était, au contraire, une illusion d'attendre qu'un acte de condescendance, tel que la reconnaissance du royaume d'Italie, parviendrait à donner un plus grand poids à l'action de l'Espagne sur les événements qui se succèdent en Italie, parce que, en acceptant le principe au nom duquel s'est accomplie la révolution italienne, il devient plus difficile de s'opposer aux conséquences qui en découlent. ¶ Passant à d'autres considérations, M. le comte de Mensdorff ne déguisait point sa crainte que le triomphe du principe révolutionnaire en Italie ne devînt une menace contre le trône de S. M. la reine; et cette inquiétude s'appuyait sur le danger d'une concession faite à des idées qui s'efforcent de se propager en Europe, et qu'il redoute qu'elles ne soient que trop répandues en Espagne. ¶ D'après ces considérations, et à la suite de la reconnaissance de l'Italie par l'Espagne, M. le comte de Mensdorff demandait si on ne serait pas fondé à contester l'opportunité d'un acte qui, en sanctionnant en quelque sorte les changements survenus dans la Péninsule italienne, encouragerait les partis qui en méditent d'autres semblables, et s'il était prudent d'affaiblir le respect dû à des principes qui ne sont que trop méconnus, et qui cependant sont le plus sûr rempart contre les passions anarchiques. Il suffit, ajoutait M. le comte de Mensdorff, d'indiquer ces questions pour en reconnaître toute l'importance, et il jugeait que le gouvernement espagnol leur avait accordé sans doute toute l'attention désirable. Le ministre de l'empereur terminait sa dépêche en protestant que ces réflexions ne lui étaient suggérées que par un sentiment d'intérêt amical envers l'Espagne, et par le vif désir qu'il avait de marcher d'accord avec le gouvernement de Sa Majesté dans une question aussi importante pour les deux pays. ¶ Pour répondre à la franchise avec laquelle le ministre des affaires étrangères d'Autriche exprimait son opinion au sujet de notre intention de reconnaître le royaume d'Italie, j'ai cru convenable d'adresser au représentant de la reine à Vienne la dépêche dont vous trouverez copie ci-jointe, et dont je l'invitais à donner lecture à M. le comte de Mensdorff. Le contenu de cette pièce servira à vous faire connaître le vrai caractère de la cor-

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respondance suivie au sujet de l'affaire dont il est question: elle vous fera voir que ni le gouvernement d'Autriche n'a protesté contre un acte qui est de la compétence exclusive du gouvernement de la reine, ni ses observations n'ont donné lieu qu'à de franches explications, qui portent le cachet de cordialité dont ont été toujours marquées les bonnes relations que nous conservons et désirons conserver avec le cabinet de Vienne. ¶ Vous êtes invité à donner lecture de cette dépêche, etc.

Manuel Bermudez de Castro.

No. 2005.

SPANIEN. — Min. d. Ausw. an den Geschäftstr. des Königs Franz II. von Neapel in Madrid. — Anzeige von der erfolgten Anerkennung d. Königreichs Italien. —

Le 28 juillet 1865.

No. 2005. Spanien, 28. Juli 1865.

Monsieur, — J'ai l'honneur de porter à votre connaissance que S. M. la reine, mon auguste souveraine, a reconnu S. M. le roi Victor-Emmanuel comme roi d'Italie. Vous comprendrez que par cette raison cessent dès ce moment la représentation que vous avez eue jusqu'à présent auprès de la cour d'Espagne, ainsi que vos rapports officiels avec le gouvernement de Sa Majesté. ¶ Tout en vous le communiquant, je ne puis pas m'empêcher de vous renouveler l'assurance de mon estime sincère pour la modération et la prudence dont vous avez donné des preuves dans l'accomplissement de la mission qui vous avait été confiée. ¶ Je saisis cette occasion, etc.

M. Bermudez De Castro.

No. 2006.

ITALIEN. — Geschäftstr. des Königs Franz II. in Madrid an d. K. Span. Min. d. Ausw. — Protest gegen die Anerkennung des Königreichs Italien durch Spanien. —

No. 2006. Franz II. von Neapel, 29. Juli 1865.

Le soussigné chargé d'affaires des Deux-Siciles a reçu la note du 28 de ce mois par laquelle S. Exc. M. D. Emmanuel Bermudez de Castro, ministre d'État de Sa Majesté Catholique, lui a communiqué que Sa Majesté a reconnu le roi Victor-Emmanuel comme *roi d'Italie*, et que, par conséquent, cessent dès ce moment la représentation diplomatique que le soussigné a eue jusqu'à présent auprès de cette cour, ainsi que ses rapports officiels avec le gouvernement espagnol. ¶ En présence de cet événement, le soussigné, dans l'accomplissement des ordres qui lui ont été donnés par son auguste souverain, a l'honneur de protester, au nom du roi son maître, contre un acte qui pour ainsi dire vient sanctionner l'occupation des États de Sa Majesté et la spoliation de ses droits. Et, tout étrange qu'il puisse paraître au premier abord, et tout douloureux et sensible qu'il puisse être au cœur du roi de devoir protester contre les actes du gouvernement d'une souveraine qui est sa proche parente et qui a même des droits éven-

tuels à la couronne des Deux-Siciles, et quoique le roi n'oubliera jamais les nobles sentiments de générosité et de loyauté dont la reine Isabelle a usé à son égard, et tous les témoignages d'affectueuse déférence qu'il en a reçus, il ne peut pas s'abstenir de remplir un devoir qui est sacré pour lui, en assurant ses droits pour qu'ils restent intacts, ainsi que ceux de ses peuples, pour l'avenir. ¶ Après l'irruption de la révolution dans le royaume des Deux-Siciles, Sa Majesté Sicilienne sortit de la capitale de ses États pour la sauver des terreurs de la guerre, et, en se rendant à Gaëte pour y défendre l'indépendance de la couronne et l'autonomie de ses peuples, protesta dès ce moment contre l'invasion sans exemple du roi de Sardaigne, c'est-à-dire d'un parent et allié qui se disait son ami, et qui, aspirant à un agrandissement illégitime, rompit tous les traités et viola tous les droits. Et ces protestations, communiquées à tous les cabinets d'Europe et livrées à la publicité, ont été répétées dans plusieurs circonstances; chaque fois qu'il s'est agi de sauvegarder les droits du souverain légitime et de ses peuples contre les actes d'un gouvernement usurpateur, qui depuis cinq ans domine dans les provinces napolitaines et siciliennes, dans ces mêmes provinces qui, formant auparavant une monarchie d'indépendance dans les conditions les plus florissantes, ont vu, dans un court espace de temps, leurs finances ruinées, le mécontentement et la misère partout, les partis extrêmes se menaçant mutuellement et ennemis entre eux, la guerre civile faisant des ravages sur leur territoire, et la domination piémontaise y commettre des actes tellement contraires à tout sentiment d'humanité et indignes de la civilisation moderne, qu'elle s'est rendue célèbre auprès de ces populations, tandis que leurs plaintes ont trouvé un écho et provoqué de fortes discussions dans tous les parlements d'Europe sans exception, y compris même celui de Turin. ¶ Et toutes lesdites protestations et les autres qui peuvent avoir été faites par S. M. le roi du royaume des Deux-Siciles ou par son gouvernement, en son nom, doivent être regardées comme comprises et confirmées par celle que le soussigné a aujourd'hui l'honneur de transmettre au gouvernement de Sa Majesté Catholique, d'après l'ordre exprès qu'il en a reçu de son auguste souverain, qui, quelle que soit sa position actuelle, décidé et résigné à tout, sans d'autre force que la justice de sa cause, mais avec une grande confiance dans le Tout-Puissant et dans l'avenir, sent le devoir de conserver, par un acte si solennel, sains et saufs pour lui et pour ses successeurs devant l'Europe entière, les droits incontestables et légitimes de sa personne, de sa dynastie, et ceux des peuples pue la Providence confia à ses soins. ¶ Ayant ainsi donné cours aux ordres de son souverain, et s'étant, le soussigné, acquitté du dernier acte de l'honorable mission qui lui avait été confiée, - il lui reste simplement à exprimer sa plus vive reconnaissance pour l'aimable accueil qu'il a toujours trouvé auprès de la reine d'Espagne et auprès de son gouvernement pendant les quelques années qu'il a eu l'honneur de résider à Madrid, et en même temps il prie Son Excellence de vouloir bien agréer ses remerciments très-sincères pour les phrases obligeantes qu'elle a bien voulu lui adresser à l'égard de la manière dont il s'est conduit dans l'exercice de ses fonctions. ¶ Le soussigné saisit cette occasion, etc.

Madrid, le 29 juillet 1865.

Comte *San Martino De Montalbo.*

No. 2007.

SPANIEN. — Min. d. Ausw. an den Geschäftstr. des Königs Franz II. von Neapel in Madrid. — Empfangsbescheinigung der vorstehenden Note vom 29. Juli 1865. —

1er août 1865.

No. 2007. Spanien, 1. Aug. 1865.

Monsieur, — J'ai reçu la communication que vous m'avez adressée le 29 juillet dernier, en réponse à la note du 28 du même mois, et les motifs qui me forcèrent alors à vous adresser cette dernière pièce sont les mêmes qui en ce moment m'empêchent d'entrer dans l'examen de vos appréciations sur la reconnaissance du royaume d'Italie par le gouvernement de la reine. ¶ Je saisis cette occasion pour vous renouveler les assurances de ma considération distinguée.

M. Bermudez de Castro.

No. 2008.

ITALIEN. — Rede des Königs bei Eröffnung des Parlaments am 18. Novbr. 1865. —

[Uebersetzung.]

No. 2008. Italien, 18. Nov. 1865.

Meine Herren Senatoren! Meine Herren Deputirten! Wenn ich in der edelmüthigen Stadt, welche die Wächterin der Geschicke Italiens zur Zeit seines neugeborenen Glückes war, die Session des Parlamentes eröffnete, waren meine Worte immer voll Ermuthigung und Hoffnung. Glänzende Thatsachen sind ihnen immer gefolgt. Von dem nämlichen Vertrauen erfüllt, sehe ich Sie heute an dieser edlen Stätte versammelt, die ebenfalls voll glorreicher Erinnerungen ist, und auch hier, wo wir auch auf der vollen Zurückerstattung unserer Rechte bestehen, werden wir jedes Hinderniss zu besiegen wissen. ¶ Beim Schlusse der letzten Session nahm meine Regierung aus Achtung vor dem Oberhaupt der Kirche und aus dem Wunsche, die religiösen Interessen der Majorität des Landes zu befriedigen, Vorschläge zu Unterhandlungen mit dem heiligen Stuhle an. Sie musste sie aber von dem Augenblicke an abbrechen, wo die Rechte meiner Krone und die der Nation sich verletzt finden konnten. Die Fülle der Zeiten und die Macht der Ereignisse werden aber die Frage zwischen dem Königreiche Italien und dem Papstthum lösen. Uns fällt vor der Hand anheim, der Convention vom 15. September getreu zu bleiben, welche Frankreich in der festgesetzten Zeit vollständig ausführen wird. ¶ Zu warten verstehen ist eine Tugend, welche Italien heute leichter gemacht ist als in der Vergangenheit. Seit dem Tage, wo ich zum letzten Male das Wort an das Parlament richtete, sind die Bedingungen besser geworden. ¶ Die Sympathien der civilisirten Völker ermuthigen uns, in unserem Werke auszuharren. In Folge der Gemeinschaft der Interessen und der Bande der Erkenntlichkeit sind wir in enger Eintracht mit Frankreich. Wir stehen in guten Beziehungen zu dem grössten Theile der übrigen Staaten Europa's und zu den Regierungen der beiden Amerika. Ein neues Feld ist dem

Handel eröffnet durch vortheilhafte Verträge, welche wir mit England, Russland, Holland, Dänemark, der Schweiz, so wie mit Frankreich, Schweden, der Türkei und Persien abgeschlossen haben. Spanien hat kürzlich Italien anerkannt. *) Bayern und Sachsen **) haben die nämliche Absicht kund gegeben, welche Preussen, das Grossherzogthum Baden und die hanseatischen Städte bereits in Ausführung gebracht haben. ¶ So sind die Bande zwischen den Völkern der romanischen Race gestärkt worden; mit den edlen germanischen Bevölkerungen werden die Italiener Interessen und Bestrebungen inniger verknüpfen können, und so werden sich die alten Vorurtheile und der Groll verwischen. Auf diese Weise wird Italien, das den Rang einnehmen muss, der ihm unter den grossen Staaten Europa's gebührt, mehr und mehr zum Triumph der Gerechtigkeit und der Freiheit beitragen. ¶ Diese haben im Innern schon bewunderungswürdige Früchte getragen. In wenigen Jahren hat man in den Verwaltungen, in den öffentlichen Bauten, in den Gesetzbüchern, in der militärischen Organisation Resultate erzielt, für welche die Arbeit mehrerer Generationen nothwendig gewesen wäre, oder die innere Streitigkeiten hervorgerufen haben würden. ¶ So viel überwundene Schwierigkeiten sind ein glückliches Anzeichen für die Zukunft. ¶ Meine Minister werden Ihnen Gesetzesprojecte vorlegen, um die legislative Unification des Königreichs vollständig zu machen und die Unwissenheit der weniger begüterten Classen zu vermindern, die Bedingungen des Credits zu verbessern und die dringendsten öffentlichen Bauten zu beschleunigen. Sie werden aus eigener Initiative andere Gesetze beantragen, wie die Erfahrung anräth. Die grösste Schwierigkeit liegt darin, der finanziellen Lage Abhülfe zu bringen, ohne dass die Nation, was ihre Land- und See-Armeen anbelangt, weniger stark dasteht. Es ist mir äusserst schmerzlich, dass eine dringende Nothwendigkeit mich zwingt, neue Opfer von meinem Volke zu verlangen. Gewiss wird sein Muth es nicht im Stiche lassen. Die Opfer, welche es bereits mit einer so bewunderungswürdigen Standhaftigkeit ertragen, bürgen mir dafür. Aber ich empfehle Ihnen an, die Lasten auf die gerechteste und wenigst schwere Weise zu vertheilen, indem Sie zu gleicher Zeit den öffentlichen Ausgaben die engsten Grenzen ziehen. ¶ Das Italienische Volk muss sich von den Ueberresten der Vergangenheit lossagen, welche die volle Entwicklung seines neuen Lebens verhindern. Sie werden daher gleichfalls über die Trennung der Kirche vom Staat und über die Unterdrückung der religiösen Körperschaften zu berathen haben. ¶ Indem wir so vorwärts gehen, werden weder die Fallstricke unserer Feinde, noch das Unglück unser Werk vernichten können. Eine tiefe, unvermeidliche Veränderung geht bei den europäischen Völkern vor sich. Die Zukunft ist in den Händen Gottes. Wenn die Erfüllung der Geschicke Italiens neue Heimsuchungen herbeiführen sollte, so bin ich überzeugt, dass seine tapferen Söhne sich von Neuem um mich schaaren werden. ¶ Wenn die moralische Kraft der Civilisation zur Geltung kommen wird, so wird der gerade und reife Geist der Nation nicht verfehlen, daraus Nutzen zu ziehen. ¶ Meine Herren Senatoren!

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*) No. 2002—2007.

**) No. 1998—2001.

No. 2008. Italien, 18. Nov. 1865.

Meine Herren Deputirten! Damit unter allen Umständen die Ehre und das Recht Italiens unverletzt bleiben, ist es nothwendig, auf dem Wege der nationalen Politik offen vorzugehen. Was mich betrifft, sicher Ihrer Unterstützung, vertrauend auf die Zuneigung des Volkes und auf die Tapferkeit der Armee, so werde ich dem edlen Unternehmen nie fehlen, welches wir unseren Nachkommen vollendet hinterlassen müssen.

No. 2009.

ÖSTERREICH und **PREUSSEN** einerseits und **DÄNEMARK** anderseits. — Protokoll zur Erläuterung einiger Bestimmungen des Friedenstractats vom 30. October 1864 (No. 1728). —

Protocole.

No. 2009. Oesterreich, Preussen und Dänemark, 1. April 1865.

Les Puissances signataires du traité de paix du 30 octobre 1864 ayant reconnu la nécessité de préciser le sens de quelques-unes des stipulations du dit traité de paix, les Plénipotentiaires soussignés, savoir: — — — se sont réunis aujourd'hui et sont convenus des points suivants:

Article I. Les ci-devant possessions du Duc d'Augustenbourg, qui n'ont pas été revendues avant le 16 novembre 1864, ainsi que les revenus consignés au cadastre (Erdbuch-Einnahmen) des fermes données en bail héréditaire et appartenant autrefois aux possessions Augustenbourgeoises, appartiennent aux Duchés aussi bien, que les Domaines de l'État situés dans les Duchés.

Article II. Les sommes dues sur le prix des possessions du Duc d'Augustenbourg, les possessions Gravensteinoises et dépendances y comprises revendues avant le 16 novembre 1864 reviennent au Danemarc. Il en est de même des intérêts de ces sommes ainsi que des à-compte, qui auraient été payés sur le capital, en tant qu'ils n'ont pas été déjà versés dans le trésor Danois.

Article III. L'indemnité pour les ci-devant possessions du Duc d'Augustenbourg mentionnée à l'Art. XI. du traité de paix ne tombe à la charge des Duchés qu'en tant qu'elle est devenue payable après le 16 novembre 1864. Il en est de même des intérêts et des à-compte, qui auraient été payés sur le capital de la dette de priorité.

Article IV. Les sommes dues au trésor Danois par des employés ou des particuliers des Duchés et provenant tant de prêts faits par la couronne Danoise à des communes ou à des charges publiques (Beamten-Stellen) des Duchés, que de ventes de propriété de l'État situées dans ces Duchés, ainsi que les intérêts et les capitaux payés sur ces créances depuis le commencement de l'exécution fédérale, resp. depuis le commencement des hostilités, en tant que les intérêts et capitaux ne sont pas déjà rentres dans le trésor Danois reviennent au Danemarc.

Ainsi fait à Berlin, le 1er avril 1865.

Károlyi. *v. Bismarck.* *Braestrup.*

No. 2010.

PREUSSEN. — Min. d. Ausw. an den Kön. Ges. bei dem Oldenburger Hofe. — Beruhigung wegen etwaiger Uebergriffe der zu berufenden Ständeversammlung der Herzogthümer. —

Berlin, 9. Juni 1865.

No. 2010. Preussen, 9. Juni 1865.

Ew. Durchlaucht habe ich unter dem 29. v. M. die Verwahrung mitgetheilt, welche Se. K. Hoheit der Grossherzog von Oldenburg unter dem 22. ej. in Bezug auf die von den beiden Deutschen Mächten kundgegebene Absicht der Berufung einer Schleswig-Holsteinischen Landes-Vertretung durch seinen Minister-Residenten an den Höfen von Berlin und Wien hat abgeben lassen. ¶ Ich ersuche Ew. Durchlaucht ergebenst, dem Grossherzoglichen Minister die Versicherung zu geben, dass die Regierung Sr. Maj. des Königs, unseres Allergnädigsten Herrn, diesem Actenstück die volle Würdigung zu Theil werden lässt, welche einem solchen Schritte eines befreundeten Bundesfürsten gebührt. ¶ Se. K. Hoheit legt darin im Voraus Verwahrung gegen jeden unberechtigten Act ein, welchen die zu berufende Ständeversammlung in Beziehung auf die Erbfolgefrage vornehmen möchte, und stellt sodann, indem er auf die in den Herzogthümern selbst sich geltend machenden Partei-Agitationen hinweiset, und sich auf die Parität beruft, welche jeder der im Conflict befindlichen Erbprätendenten von der Unparteilichkeit der beiden im Besitz befindlichen Regierungen zu fordern berechtigt sei, seine Rechte unter den Schutz der beiden Souveraine von Preussen und Oesterreich. ¶ Die Regierung Sr. Majestät des Königs ist immer bemüht gewesen, diese Unparteilichkeit in vollem Masse zu wahren. Sie wird dasselbe, wie in jedem weiteren Stadium dieser schwierigen und verwickelten Frage, so auch bei der bevorstehenden Verhandlung mit der Landesvertretung thun, und es sich zur Aufgabe machen, eine unparteiische und eingehende Würdigung und Beachtung aller Rechte, ohne Benachtheiligung eines der Prätendenten, zu vermitteln. Es ist auch ihre ernste Absicht, den Partei-Agitationen in den Herzogthümern, über welche die Depesche des Grossherzoglichen Herrn Ministers sich beschwert, mit Entschiedenheit entgegenzutreten, und den Einfluss derselben auf die Wahlen und die Versammlung selbst, soviel an ihr ist, zu verhüten. Wenn die in der Depesche ausgedrückten Besorgnisse sich verwirklichen sollten, dass die Einflüsse zu unberechtigten Acten einseitiger Verfügung über die Rechte Dritter, oder zu Demonstrationen, welche eine rechtliche und politische Bedeutung in Anspruch nehmen und der definitiven Entscheidung vorgreifen wollten, führen möchten — was die K. Regierung indess von dem rechtlichen und loyalen Sinn der Bevölkerung nicht glaubt erwarten zu sollen: so ist sie des Einverständnisses der Kais. Oesterreichischen Regierung sicher dafür, dass die beiden Regierungen gemeinsam allen unberechtigten Acten entgegentreten werden. Die bekannte Gesinnung Sr. Maj. des Königs, unseres Allergnädigsten Herrn, darf Sr. K. Hoheit dem Grossherzoge Bürge dafür sein, dass Sein Vertrauen auf den angerufenen Schutz Seiner Rechte, so-

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weit dieselben bestehen und sich nachweisen lassen, nicht werde getäuscht werden. ¶ Ew. Durchl. sind ermächtigt, diese Depesche dem Grossherzoglichen Herrn Minister abschriftlich mitzutheilen.

v. Bismarck.

Dem Prinzen **Ysenburg** in *Hannover.*

No. 2011.

ÖSTERREICH und **PREUSSEN.** — Convention d. d. Gastein 14. Aug. 1865, Abtretung des Herzogthums Lauenburg an Preussen und Trennung der bisher gemeinsamen Verwaltung der Herzogthümer Schleswig und Holstein betr. —

No. 2011. Oesterreich und Preussen, 14. Aug. 1865.

Ihre Majestäten der König von Preussen und der Kaiser von Oesterreich haben sich überzeugt, dass das bisher bestandene Condominium in den von Dänemark durch den Friedensvertrag vom 30. October 1864 abgetretenen Ländern zu Unzukömmlichkeiten führt, welche gleichzeitig das gute Einvernehmen zwischen Ihren Regierungen und die Interessen der Herzogthümer gefährden. Ihre Majestäten sind deshalb zu dem Entschlusse gelangt, die Ihnen aus dem Artikel III des erwähnten Tractates zufliessenden Rechte fortan nicht mehr gemeinsam auszuüben, sondern bis auf weitere Vereinbarung die Ausübung derselben geographisch zu theilen. ¶ Zu diesem Zwecke haben:

Seine Majestät der König von Preussen Allerhöchst Ihren Präsidenten des Staats-Ministeriums und Minister der auswärtigen Angelegenheiten Otto von Bismarck-Schönhausen, Ritter des Schwarzen Adler-Ordens, Grosskreuz des St. Stephan-Ordens u. s. w.

Seine Majestät der Kaiser von Oesterreich Allerhöchst Ihren wirklichen Kämmerer, ausserordentlichen Gesandten und bevollmächtigten Minister am Königlich Bayerischen Hofe Gustav Grafen von Blome, Ehrenritter des souverainen Johanniter-Ordens u. s. w.

zu Ihren Bevollmächtigten ernannt, welche nach Auswechselung ihrer in gehöriger Form befundenen Vollmachten über die nachfolgenden Artikel übereingekommen sind.

Artikel 1. Die Ausübung der von den hohen vertragschliessenden Theilen durch den Art. III des Wiener Friedenstractates vom 30. October 1864 gemeinsam erworbenen Rechte, wird unbeschadet der Fortdauer dieser Rechte beider Mächte an der Gesammtheit beider Herzogthümer, in Bezug auf das Herzogthum Schleswig auf Seine Majestät den König von Preussen, in Bezug auf das Herzogthum Holstein auf Seine Majestät den Kaiser von Oesterreich übergehen.

Artikel 2. Die hohen Contrahenten wollen am Bunde die Herstellung einer Deutschen Flotte in Antrag bringen, und für dieselbe den Kieler Hafen als Bundeshafen bestimmen. Bis zur Ausführung der desfallsigen Bundesbeschlüsse benutzen die Kriegsschiffe beider Mächte diesen Hafen, und wird das Commando und die Polizei über denselben von Preussen ausgeübt. Preus-

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sen ist berechtigt, sowohl zur Vertheidigung der Einfahrt Friedrichsort gegenüber die nöthigen Befestigungen anzulegen, als auch auf dem Holsteinischen Ufer der Bucht die dem Zwecke des Kriegshafens entsprechenden Marine-Etablissements einzurichten. Diese Befestigungen und Etablissements stehen gleichfalls unter Preussischem Commando, und die zu ihrer Besatzung und Bewachung erforderlichen Preussischen Marinetruppen und Mannschaften können in Kiel und Umgegend einquartirt werden.

Artikel 3. Die hohen contrahirenden Theile werden in Frankfurt beantragen, Rendsburg zur Deutschen Bundesfestung zu erheben. ¶ Bis zur bundesgemässen Regelung der Besatzungsverhältnisse dieser Festung wird deren Garnison aus Königlich Preussischen und Kaiserlich Oesterreichischen Truppen bestehen, mit jährlich am 1. Juli alternirendem Commando.

Artikel 4. Während der Dauer der durch Art. 1 der gegenwärtigen Uebereinkunft verabredeten Theilung wird die Königlich Preussische Regierung zwei Militär-Strassen durch Holstein, die eine von Lübeck auf Kiel, die andere von Hamburg auf Rendsburg, behalten. ¶ Die näheren Bestimmungen über die Etappenplätze der Truppen, sowie über den Transport und Unterhalt der Truppen werden ehestens durch eine besondere Convention geregelt werden. Bis dies geschehen, gelten die für die Preussischen Etappenstrassen durch Hannover bestehenden Bestimmungen.

Artikel 5. Die Königlich Preussische Regierung behält die Verfügung über einen Telegraphendraht zur Verbindung mit Kiel und Rendsburg, und das Recht, Preussische Postwagen mit ihren eigenen Beamten auf beiden Linien durch das Herzogthum Holstein gehen zu lassen. ¶ Insoweit der Bau einer directen Eisenbahn von Lübeck über Kiel zur Schleswigschen Grenze noch nicht gesichert ist, wird die Concession dazu auf Verlangen Preussens für das Holsteinische Gebiet unter den üblichen Bedingungen ertheilt werden, ohne dass ein Anspruch auf Hoheitsrechte in Betreff der Bahn von Preussen gemacht werden wird.

Artikel 6. Es ist die übereinstimmende Absicht der hohen Contrahenten, dass die Herzogthümer dem Zollvereine beitreten werden. Bis zum Eintritt in den Zollverein, respective bis zu anderweitiger Verabredung, besteht das bisherige, beide Herzogthümer umfassende Zollsystem unter gleicher Theilung der Revenüen desselben fort. In dem Falle, dass es der Königlich Preussischen Regierung angezeigt erscheint, noch während der Dauer der im Art. 1 der gegenwärtigen Uebereinkunft verabredeten Theilung Unterhandlungen Behufs des Beitritts der Herzogthümer zum Zollvereine zu eröffnen, ist Se. Majestät der Kaiser von Oesterreich bereit, einen Vertreter des Herzogthums Holstein zur Theilnahme an solchen Verhandlungen zu bevollmächtigen.

Artikel 7. Preussen ist berechtigt, den anzulegenden Nord-Ostsee-Canal, je nach dem Ergebniss der von der Königlichen Regierung eingeleiteten technischen Ermittelungen, durch das Holsteinische Gebiet zu führen. In so weit dies der Fall sein wird, soll Preussen das Recht zustehen, die Richtung und die Dimensionen des Canals zu bestimmen, die zur Anlage erforderlichen Grundstücke im Wege der Expropriation, gegen Ersatz des Werthes, zu erwer-

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ben, den Bau zu leiten, die Aufsicht über den Canal und dessen Instandhaltung zu führen, und das Zustimmungsrecht zu allen denselben betreffenden reglementarischen Bestimmungen zu üben. Transitzölle oder Abgaben von Schiff und Ladung, ausser der für die Benutzung des Canals zu entrichtenden, von Preussen für die Schiffe aller Nationen gleichmässig zu normirenden Schifffahrtsabgabe, dürfen auf der ganzen Ausdehnung des Canals nicht erhoben werden.

Artikel 8. An den Bestimmungen des Wiener Friedensvertrages vom 30. October 1864 über die von den Herzogthümern sowohl gegenüber Dänemark als gegenüber Oesterreich und Preussen zu übernehmenden finanziellen Leistungen wird durch die gegenwärtige Uebereinkunft nichts geändert, doch soll das Herzogthum Lauenburg von jeder Beitragspflicht zu den Kriegskosten befreit bleiben. Der Vertheilung dieser Leistungen zwischen den Herzogthümern Holstein und Schleswig wird der Bevölkerungsmassstab zu Grunde gelegt werden.

Artikel 9. Seine Majestät der Kaiser von Oesterreich überlässt die im mehrerwähnten Wiener Friedensvertrage erworbenen Rechte auf das Herzogthum Lauenburg Sr. Majestät dem Könige von Preussen, wogegen die Königlich Preussische Regierung sich verpflichtet, der Kaiserlich Oesterreichischen Regierung die Summe von zwei Millionen und Fünf Hunderttausend Dänischen Thalern zu entrichten, in Berlin zahlbar in Preussischem Silbergelde vier Wochen nach Bestätigung gegenwärtiger Uebereinkunft durch Ihre Majestäten den König von Preussen und den Kaiser von Oesterreich.

Artikel 10. Die Ausführung der vorstehend verabredeten Theilung des Condominiums wird baldmöglichst nach Genehmigung dieses Abkommens durch Ihre Majestäten den König von Preussen und den Kaiser von Oesterreich beginnen und spätestens bis zum 15. September beendet sein. ¶ Das bis jetzt bestehende gemeinschaftliche Ober-Commando wird nach vollendeter Räumung Holsteins durch die Königlich Preussischen, Schleswigs durch die Kaiserlich Oesterreichischen Truppen spätestens am 15. September aufgelöst werden.

Artikel 11. Gegenwärtige Uebereinkunft wird von Ihren Majestäten dem König von Preussen und dem Kaiser von Oesterreich durch Austausch schriftlicher Erklärungen bei Allerhöchst deren nächster Zusammenkunft genehmigt werden. ¶ Zu Urkund dessen haben beide Eingangs genannte Bevollmächtigte diese Vereinbarung in doppelter Ausfertigung am heutigen Tage mit ihrer Namens-Unterschrift und mit ihrem Siegel versehen.

So geschehen: Gastein, den 14. August Eintausend Achthundert Fünf und Sechszig.

(L. S.) *v. Bismarck.* (L. S.) *v. Blome.*

No. 2012.

ÖSTERREICH und **PREUSSEN.** — Bekanntmachung, betr. die Auflösung der gemeinsamen obersten Civilbehörde für die Herzogthümer Schleswig, Holstein und Lauenburg. —

No. 2012. Oesterreich und Preussen, 5. Sept. 1865.

In Ausführung der Gasteiner Convention vom 14. August cr. wird die bisherige gemeinsame oberste Civilbehörde für die Herzogthümer Schleswig, Holstein und Lauenburg mit dem 15. September d. J. aufgelöst werden und von diesem Zeitpunkte ab eine besondere Verwaltung für jedes der genannten Herzogthümer eintreten. Indem wir dies hiermit allen Behörden und Bewohnern der Herzogthümer Schleswig, Holstein und Lauenburg zur Kenntniss bringen, und in Betreff der neuen Verwaltungs-Behörden für die Herzogthümer Schleswig und Holstein auf die demnächst zu erlassenden besonderen Bekanntmachungen verweisen, fügen wir noch hinzu, dass die bisher für die Herzogthümer Lauenburg und Holstein gemeinsam gewesenen Institutionen, vorbehältlich demnächstiger Regulirung, einstweilen unverändert bleiben.

Schleswig, den 5. September 1865.

Die Kaiserlich K. Oesterreichische und Königlich Preussische oberste Civilbehörde der Herzogthümer Schleswig-Holstein und Lauenburg.

Frhr. *v. Zedlitz.* Frhr. *v. Halbhuber.*

No. 2013.

ÖSTERREICH und **PREUSSEN.** — Verordnung, betr. die Ausführung der durch die Convention d. d. Gastein den 14. Aug. 1865 in Betreff der Verwaltung der Herzogthümer Schleswig u. Holstein getroffenen Bestimmungen. —

No. 2013. Oesterreich und Preussen, 5. Sept. 1865.

Zur Ausführung der durch die Convention de dato Gastein den 14. August 1865 in Betreff der Verwaltung der Herzogthümer Schleswig und Holstein getroffenen Bestimmungen verfügen wir hiermit Folgendes:

1. Die Verordnung vom 12. Januar 1865, betreffend die Einsetzung einer gemeinsamen Landesregierung für die Herzogthümer Schleswig-Holstein, sowie die Verordnung vom 14. Januar 1865, betreffend die Vertheilung der Geschäftszweige unter die einzelnen Sectionen der Schleswig-Holsteinischen Landesregierung und deren Geschäftsgang treten mit dem 15. September d. J. ausser Kraft, und beendigt die Schleswig-Holsteinische Landesregierung ihre Wirksamkeit mit Eintritt dieses Tages. ¶ Ueber die an die Stelle der Schleswig-Holsteinischen Landesregierung tretenden neuen Verwaltungsbehörden wird in einer besonderen Verordnung für jedes Herzogthum das Nähere bekannt gemacht werden.

2. Die den Herzogthümern Schleswig und Holstein bisher gemeinschaftlichen Institute, Anstalten und Einrichtungen, als die Schleswig-Holsteinische Ritterschaft, die Landesuniversität zu Kiel, der Schleswig-Holsteinische Canal, die Irren-Anstalt und das Taubstummen-Institut zu Schleswig und die

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Strafanstalten zu Glückstadt, sowie das Brandversicherungswesen bleiben gemeinschaftlich und unterliegen auch künftig der gemeinsamen Behandlung der obersten Regierungsbehörden für Schleswig und für Holstein. Ausserdem werden folgende bisher beiden Herzogthümern gemeinschaftliche Einrichtungen, als die Examinations-Collegien für die Candidaten der Theologie und Rechtswissenschaften, die Landmesser-Examinationscommission, das Sanitätscollegium und das Hauptaichamt zu Kiel vorläufig in ihrer gemeinsamen Wirksamkeit belassen, dagegen wird der durch die Verordnung vom 3. August 1865 dem Medicinal-Inspector und dem Veterinär-Physicus beigelegte abgezweigte Wirkungskreis fortan in jedem Herzogthum eigenen Functionären zugewiesen werden. ¶ Die Verordnung vom 12. Januar 1865, betreffend die Vereinigung der Verwaltung des Schleswigschen und Holsteinischen Zollwesens und die Einsetzung einer Schleswig-Holsteinischen Zolldirection, die Bekanntmachung vom 11. December 1864, betreffend die Einsetzung einer Schleswig-Holsteinischen Ober-Post-Inspection und die Bekanntmachung vom 11. December 1864, betreffend die Einsetzung einer Schleswig-Holsteinischen Ober-Telegraphen-Inspection treten vom 15. September d. J. an ausser Kraft und haben die vorgenannten drei Behörden mit diesem Tage ihre Functionen einzustellen.

3. Die Verwaltung des Zoll-, Post- und Telegraphenwesens wird vom 15. September cr. ab für jedes Herzogthum getrennt geführt; die Kreuzzollinspectorate verbleiben jedoch als gemeinsame Behörden in ihrem bisherigen, auch das Leuchtfeuer-, Tonnen- und Bakenwesen umfassenden Geschäftskreise, den beiderseitigen Zollverwaltungen untergeordnet. ¶ Die in dieser Beziehung weiter erforderlichen Bestimmungen werden durch besondere Verordnungen für jedes Herzogthum getroffen werden.

4. Die Schleswig-Holsteinische Hauptkasse in Rendsburg verbleibt mit der Modification in ihrer bestehenden Einrichtung, dass vom 15. September d. J. ab eine getrennte Buchführung über Einnahmen und Ausgaben für jedes Herzogthum unter Einsetzung eines Schleswigschen und eines Holsteinischen Controlleurs eintritt.

5. Die Finanzverwaltung der Herzogthümer Schleswig und Holstein wird vom 15. September cr. an getrennt, und sollen durch eine besondere Verordnung die näheren Modalitäten dieser Trennung und der Behandlung der bisher gemeinsam gewesenen Ausgaben festgestellt werden.

6. Das durch Verordnung vom 1. Februar 1865 eingeführte gemeinsame Verordnungsblatt für Schleswig-Holstein und Lauenburg hört mit dem 15. September cr. auf als solches zu erscheinen. Ueber die Form der künftigen Kundmachung der Gesetze und Verordnungen in den Herzogthümern bleibt die Bestimmung den obersten Verwaltungsbehörden derselben vorbehalten.

Schleswig, den 5. September 1865.

Die Kaiserlich Königlich Oesterreichische und Königlich Preussische oberste Civilbehörde der Herzogthümer Schleswig-Holstein und Lauenburg.

Frhr. *v. Zedlitz.* Frhr. *v. Halbhuber.*

No. 2014.

FRANKREICH. — Min. d. Ausw. an die Kaiserl. diplomat. Vertreter im Auslande. — Die Convention von Gastein betr. —

Paris, 29 août 1865.

No. 2014. Frankreich, 29. Aug. 1865.

Les journaux nous ont apporté le texte de la Convention de Gastein. Je n'ai pas la pensée d'en examiner les stipulations en détail, mais il n'est pas sans intérêt de rechercher quels sont les mobiles qui ont guidé dans ces négociations les deux grandes Puissances allemandes. ¶ Ont-elles entendu consacrer le droit des anciens traités? Assurément non: les traités de Vienne avaient réglé les conditions d'existence de la monarchie danoise. Ces conditions sont renversées. Le traité de Londres était un nouveau témoignage de la sollicitude de l'Europe pour la durée de l'intégrité de cette monarchie: il est déchiré par deux Puissances qui l'avaient signé. ¶ Est-ce pour la défense d'un droit de succession méconnu que l'Autriche et la Prusse se sont concertées? Au lieu de restituer au prétendant le plus autorisé l'héritage en litige, elles se le partagent entre elles. ¶ Consultent-elles l'intérêt de l'Allemagne? Mais leurs confédérés n'ont appris que par les feuilles publiques les arrangements de Gastein. L'Allemagne voulait un État indivisible de Slesvig-Holstein, séparé du Danemark, et gouverné par un Prince dont elle avait épousé les prétentions. Ce candidat populaire est mis de côté aujourd'hui, et les Duchés, séparés au lieu d'être unis, passent sous deux dominations différentes. ¶ Est-ce l'intérêt des Duchés eux-mêmes qu'ont voulu garantir les deux Puissances? Mais l'union indissoluble des territoires était, disait-on, la condition essentielle de leur prospérité. ¶ Le partage a t-il au moins pour but de désagréger deux nationalités rivales, et de faire cesser leurs discussions intérieures, en assurant à chacune d'elles une existence indépendante? Il n'en est pas ainsi, car nous voyons que la ligne de séparation, ne tenant aucun compte de la distinction de races, laisse confondus les Danois avec les Allemands. ¶ S'est-on préoccupé du vœu des populations? Elles n'ont été consultées sous aucune forme, et il n'est pas même question de réunir la Diète Slesvig-Holsteinoise. ¶ Sur quel principe repose donc la combinaison austro-prussienne? Nous regrettons de n'y trouver d'autre fondement que la force, d'autre justification que la convenance réciproque des deux co-partageants. C'est là une pratique dont l'Europe actuelle était déshabituée, et il en faut chercher les précédents aux âges les plus funestes de l'histoire. La violence et la conquête pervertissent la notion du droit et la conscience des peuples. Substituées aux principes qui règlent la vie des sociétés modernes, elles sont un élément de trouble et de dissolution, et ne peuvent que bouleverser l'ordre ancien, sans édifier solidement aucun ordre nouveau. ¶ Telles sont, Monsieur . . . . ., les considérations qu'inspirent au Gouvernement de l'Empereur les événements dont l'Allemagne est en ce moment le théâtre. En Vous faisant part de ces impressions, mon intention n'est pas de Vous inviter à adresser des observations à ce sujet à la cour auprès de laquelle Vous êtes accrédité, mais de Vous indiquer seulement le langage que Vous devrez tenir, lorsque l'occasion se présentera pour Vous de faire connaître Votre opinion. ¶ Recevez, etc. etc. *Drouyn de Lhuys.*

No. 2015.

GROSSBRITANNIEN. — Min. d. Ausw. an die Kön. Vertreter im Auslande. — Bedauern über den Abschluss der Convention von Gastein. —

Foreign Office, Sept. 14, 1865.

No. 2015. Grossbritannien, 14. Sept. 1865.

The Chargé d'Affaires of Prussia has communicated to me the substance of a despatch relating to the Convention of Gastein, and the newspapers of Berlin have since published the text of that Convention. ¶ Upon the first communication to her Majesty's Government of the preliminaries of peace signed at Vienna, I stated at Vienna and Berlin the views of her Majesty's Government upon those preliminaries. The present Convention has only served to increase the regret her Majesty's Government then expressed. ¶ The Treaties of 1815 gave the King of Denmark a seat in the German Diet as Duke of Holstein. ¶ The Treaty of 1852 recognised the right of succession to the whole Danish monarchy, which the late King had established in the person of the present King. ¶ That treaty has, in spite of the assurances given in the despatches of January 31, 1864, been completely set aside by Austria and Prussia, two of the Powers who had signed it. ¶ It might have been expected that when treaties were thus annulled the popular feeling of Germany, the wishes of the peoples of the Duchies themselves, and the opinions of the majority of the Diet so explicitly put forth by Austria and Prussia in the sittings of the Conference of London, would have been recognised in their place. In this manner, if one order of rights had been overthrown, another title derived from the assent of the people would have been set up, and that title might have been received with respect, and maintained with a prospect of permanence. ¶ But all rights, old and new, whether founded on the solemn compact of Sovereigns, or on the clear expression of the popular will, have been set at nought by the Convention of Gastein, and the dominion of force is the sole power acknowledged and regarded. Violence and conquest are the basis upon which alone the partitioning Powers found their agreement. ¶ H. M.'s Government deeply lament the disregard thus shown to the principles of public right, and the legitimate claims of a people to be heard as to the disposal of their own destiny. ¶ This instruction does not authorise you to address observations on this subject to the Court to which you are accredited, but is intended only to point out, when the opportunity shall present itself, what is the language you are expected to hold. ¶ I am, &c.

Russell.

No. 2016.

PREUSSEN. — Königliches Patent, betr. die Besitzergreifung des Herzogthums Lauenburg. —

No. 2016. Preussen, 13. Sept. 1865.

Wir Wilhelm, von Gottes Gnaden König von Preussen etc. thun hiermit Jedermann kund und zu wissen:

Nachdem Seine Majestät König Christian IX. von Dänemark in dem zu

No. 2016. Preussen, 13. Sept. 1865.

Wien am 30. October 1864 abgeschlossenen Friedenstractate Seine Rechte an das Herzogthum Lauenburg an Uns und Seine Majestät den Kaiser von Oesterreich gemeinschaftlich abgetreten; und nachdem Seine Majestät der Kaiser Franz Joseph I. von Oesterreich Seinen Antheil an diesen Rechten durch die am 14. August d. J. zu Gastein verabredete und am 20. desselben Monats zu Salzburg zwischen Uns abgeschlossene Vereinbarung, welche durch Unsere Civil-Commissarien unter dem 5. d. M. zur öffentlichen Kenntniss gebracht ist, Uns überlassen hat: so nehmen Wir, in Erfüllung des von der Lauenburgischen Landesvertretung ausgesprochenen Wunsches, dieses Herzogthum in Kraft des gegenwärtigen Patents mit allen Rechten der Landeshoheit und Oberherrlichkeit in Besitz, fügen Unseren Titeln den eines Herzogs von Lauenburg bei, und wollen, dass das Herzogthum Lauenburg in Unserem Königlichen Hause nach den für die Succession in die Krone Preussen bestehenden Grundsätzen vererben soll. Wir entbieten allen Einwohnern des Herzogthums Unseren landesväterlichen Gruss, und gebieten ihnen, Uns fortan als ihren rechtmässigen Landesherrn anzuerkennen, Uns und Unseren Nachfolgern den Eid der Treue zu leisten und Unseren Gesetzen und Anordnungen nachzuleben, wogegen Wir sie Unseres landesherrlichen Schutzes versichern und versprechen, dass Wir sie gerecht regieren, das Land und seine Bewohner bei ihren wohlerworbenen Rechten schützen und Unsere landesväterliche Fürsorge auf die Wohlfahrt derselben richten wollen. ¶ Zu Unserem Minister für Lauenburg haben Wir Unseren Minister-Präsidenten und Minister der auswärtigen Angelegenheiten, von Bismarck-Schönhausen, ernannt und demselben befohlen, die Regierung nach Massgabe der im Herzogthum bestehenden Gesetze und Landesordnungen zu führen, wollen auch alle Beamte des Herzogthums, nachdem Uns dieselben den Eid der Treue geleistet haben werden, in ihren Anstellungen bestätigen und belassen. ¶ Wir beauftragen Unseren Staatsminister Grafen von Arnim-Boitzenburg, von dem Herzogthum Lauenburg hiernach in Unserem Namen und Auftrag Besitz zu ergreifen, die obersten Behörden des Landes in Eid und Pflicht für Uns zu nehmen, und ihnen den Auftrag zur Vereidigung der übrigen Beamten zu ertheilen, indem Wir die Erbhuldigung des Landes bis zu dem Zeitpunkt vorbehalten, wo es Uns möglich sein wird, dieselbe in eigener Person entgegenzunehmen. ¶ So geschehen Berlin, den 13. September 1865.

Wilhelm Rex.

(L. S.) *v. Bismarck.*

No. 2017.

PREUSSEN. — Proclamation, betr. die Uebernahme des Gouvernements des Herzogthums Schleswig durch den General v. Manteuffel. —

No. 2017. Preussen, 15. Sept. 1865.

Einwohner des Herzogthums Schleswig! — Durch den Vertrag von Gastein seid Ihr demnächst einer besonderen Verwaltung unter der Autorität Seiner Majestät des Königs von Preussen überwiesen worden. ¶ Das Wort Preussische Verwaltung schliesst den Gedanken: „Gerechtigkeit, öffentliche Ordnung, Be-

No. 2017. Preussen, 15. Sept. 1865.

förderung der allgemeinen Wohlfahrt" in sich ein. ¶ Indem ich auf Befehl Seiner Majestät des Königs von Preussen heute das Gouvernement des Herzogthums übernehme, verspreche ich Euch zugleich volle Berücksichtigung Eurer eigenen Interessen. Ich erwarte von Euch Gehorsam gegen die Befehle Sr. Majestät und Vertrauen. ¶ Schloss Gottorff, den 15. September 1865.

Der Gouverneur des Herzogthums Schleswig,
Generallieutenant, Generaladjutant Sr. Majestät des Königs von Preussen:
E. Manteuffel.

No. 2018.

ÖSTERREICH. — Proclamation, betr. die Uebernahme der Statthalterschaft im Herzogthum Holstein durch den F.-M.-L. Freiherrn v. Gablenz. —

No. 2018. Oesterreich, 15. Sept. 1865.

Einwohner des Herzogthums Holstein! — Durch das Allerhöchste Handschreiben Sr. Majestät des Kaisers von Oesterreich, meines allergnädigsten Herrn, d. d. Wien am 4. September 1865, bin ich, in Ausführung des zwischen Oesterreich und Preussen zu Gastein am 14. August 1865 geschlossenen Uebereinkommens, zum Statthalter des Herzogthums Holstein ernannt, und es ist mir die Leitung der Civil- und Militair-Verwaltung dieses Herzogthums übertragen. ¶ Gekräftiget durch das Allerhöchste Vertrauen, trete ich mit heutigem Tage an die Spitze dieses Landes. ¶ Einwohner des Herzogthums Holstein! — Wir sind einander nicht unbekannt, denn noch ist es nicht lange her, dass ich so glücklich war, Euer schönes und gesegnetes Land zu betreten, um an der Spitze eines Kaiserlichen Armee-Corps, im Vereine mit den alliirten Königlich-Preussischen Truppen in den Kampf zu gehen, der Euere nationale Unabhängigkeit zur Folge gehabt hat. ¶ Ich hoffe als Kaiserlicher Statthalter auf dasselbe Entgegenkommen von Euch, wie es damals die Kaiserlichen Fahnen fanden. Mit voller Zuversicht zähle ich auch diesmal auf Eueren oft erprobten besonnenen Charakter, auf Eueren Sinn für Gesetzlichkeit. ¶ Diese zuversichtliche Hoffnung erleichtert mir die Uebernahme meiner jetzigen Mission, deren Schwierigkeiten ich nicht verkenne — Schwierigkeiten, die jedoch durch Euere ruhige und von wahrem Patriotismus beseelte Haltung überwunden werden können. ¶ Mit aller Entschiedenheit will ich meinerseits die unter Euch so hoch ausgebildete Selbstverwaltung aufrechterhalten und die Landeskinder vor Allem dabei mitwirken lassen. ¶ Ich verspreche Euch die gewissenhafte Anwendung der bestehenden Gesetze, die möglichste Förderung Eueres geistigen und materiellen Wohles, energischen schnellen Vollzug der Administration und strenge Handhabung einer unparteiischen Rechtspflege. ¶ Zum Zwecke eines geregelten und ununterbrochenen Geschäftsganges, erlasse ich gleichzeitig die erforderlichen Verordnungen, wodurch für mich die Grundlage gewonnen wird, um den wirklichen Bedürfnissen des Landes Rechnung tragen zu können. ¶ Den Befugnissen der entscheidenden Politik fernstehend, beseelt mich allein der Gedanke, jedem Parteigetriebe fremd, unablässig nur die Entwickelung der Wohlfahrt dieses Landes

anzustreben und durch das Vertrauen der Bevölkerung gestützt, den berechtigten Wünschen derselben entgegen zu kommen. ¶ Altona, am 15. September 1865.

No. 2018. Oesterreich, 15. Sept. 1865.

Gablenz,
Feld-Marschall-Lieutenant.

No. 2019.

PREUSSEN. — Schreiben des Gouverneurs von Schleswig an den Herzog Friedrich, die Ereignisse bei des Letzteren Fahrt durch Eckernförde u. Borbye betr. —

Schloss Gottorff, 18. October 1865.

No. 2019. Preussen, 18. Oct. 1865.

Ew. Durchlaucht haben Sich veranlasst gefunden, am 14. d. M. in Borbye während des Umspannens auszusteigen, Anreden einzelner Personen entgegenzunehmen, in welchen Sie als Landesherr begrüsst worden sind, und dieselben zu beantworten. Durch die Vorbereitungen zu dieser Reise hatten einzelne Agitatoren Zeit gewonnen, 6 bis 7 Reiter zu versammeln, welche Ihrem Wagen vorritten und in Eckernförde einen Theil der Bevölkerung zusammenzurotten. ¶ Ew. Durchlaucht Fahrt durch Eckernförde und Aufenthalt in Borbye hat hiernach den Charakter einer politischen Demonstration angenommen. Dergleichen stören den Frieden des Landes, gefährden die Existenzen einzelner Persönlichkeiten und verstossen gegen die gesetzliche Ordnung des Herzogthums, für deren Aufrechthaltung ich verantwortlich bin. Ich habe daher die gemessensten Befehle gegeben, dass bei ähnlichen Wiedervorkommnissen mit allen zur Aufrechthaltung der öffentlichen Ordnung und zur Vermeidung weiterer Störung geeigneten gesetzlichen Mitteln und nöthigenfalls mit Verhaftung eingeschritten wird. ¶ Se. Majestät der König, mein Allergnädigster Herr, haben von Alters her so viel Gnade für Ew. Durchlaucht, Ihren Herrn Vater und dessen ganzes Haus gehabt, dass es mir schmerzlich sein würde, wenn Ew. Durchlaucht Person in Verwickelung mit der Polizei des Herzogthums Schleswig geriethen, und ich fühle mich daher gedrungen, Ew. Durchlaucht von den getroffenen Anordnungen in Kenntniss zu setzen und Sie unterthänig zu bitten, mich rechtzeitig zu benachrichtigen, wenn Ew. Durchlaucht Besuche im Herzogthum Schleswig beabsichtigen, damit ich die nöthigen Anordnungen treffen kann, Ew. Durchlaucht vor allen persönlichen Unannehmlichkeiten möglichst zu bewahren. ¶ Den Statthalter des Herzogthums Holstein, Feldmarschalllieutenant Baron v. Gablenz, habe ich von dem Vorfall in Eckernförde und Borbye, wo Ew. Durchlaucht die private Stellung, welche Sie im Herzogthum Holstein gegenwärtig einnehmen, nicht beibehalten haben, in Kenntniss gesetzt.

Frhr. v. Manteuffel.

A. d. Prinzen **Friedrich** von Schl.-H.-S.-A. Durchl., *Kiel.*

No. 2020.

SCHLESWIG-HOLSTEIN (AUGUSTENBURG). — Erwiderung des Herzogs Friedrich auf das vorstehende Schreiben des Gouverneurs vom Herzogthum Schleswig. —

No. 2020. Schleswig-Holstein (Augustenburg), 29. Oct. 1865.

Ew. Excellenz Schreiben vom 18. d. M. habe ich zu empfangen die Ehre gehabt. ¶ Wenn ich auch die dem Schreiben zu Grunde liegenden Anschauungen und verschiedene der darin angeführten Thatsachen als richtig nicht anerkennen kann, so werden Ew. Excellenz doch selbst erkennen, dass durch das inzwischen Erfolgte mir ein Eingehen auf dieses Schreiben unmöglich gemacht ist. ¶ Nur eine kurze Bemerkung will ich nicht unterdrücken. ¶ Es wird jetzt wohl auf das Evidenteste sich herausgestellt haben, was bei dem rein privaten Zweck meiner Reise selbstverständlich ist, dass die loyale Begrüssung Seitens der Bevölkerung der Stadt Eckernförde ohne jedwede Anregung von meiner Seite und im natürlichen Ausbruch lang zurückgedrängter Gefühle erfolgt ist. ¶ Es mag sein, dass die Aeusserungen solcher Gesinnung unterdrückt werden können: das Gefühl der Anhänglichkeit an das einheimische Fürstenhaus und die Treue gegen das Recht des Landes werden fortbestehen. ¶ Um dem Lande diesen unabsehbaren Kampf der rechtlichen Ueberzeugung mit thatsächlichen Machtverhältnissen zu ersparen, giebt es Ein Mittel, auf welches die Bevölkerung Schleswig-Holsteins ein unangefochtenes Recht besitzt und dessen Ergreifung ich jederzeit befürwortet habe. ¶ Ew. Excellenz würden sich die Dankbarkeit aller Schleswig-Holsteiner erwerben, wenn Sie Ihre bevorzugte Stellung dazu benutzen wollten, um Se. Majestät den König, Ihren Allergnädigsten Herrn, zu bewegen, die Berufung einer freigewählten Landesvertretung herbeizuführen und derselben zu ihrem Theil die Entscheidung über das Geschick dieses vielgeprüften Landes anheimzustellen.

Nienstedten, den 29. Oct. 1865. **Friedrich.**

Sr. Exc. Herrn Freih. v. **Manteuffel**, K. Pr. Generall., *Schleswig.*

No. 2021.

PREUSSEN. — Rückantwort des Gouverneurs von Schleswig an den Herzog Friedrich. —

No. 2021. Preussen, 31. Oct. 1865.

Ew. Durchlaucht gegenüber befinde ich mich in derselben Lage, in der Sie selbst, Ihrem geehrten Schreiben vom 29. d. M. nach, es mir gegenüber gewesen sind. ¶ Auf den ganzen Inhalt Ihres Briefes kann auch ich nicht näher eingehen. Derselbe enthält einen Rathschlag, und ich bin nicht in dem Verhältnisse, einen solchen von Ew. Durchlaucht entgegennehmen zu können. ¶ Demnächst enthält er den Beweis, dass Ew. Durchlaucht über die Bedeutung der vorbereiteten-Demonstration einzelner Parteigänger in Eckernförde, ebenso wie über die eigentliche Stimmung der Bevölkerung des Herzogthums Schleswig unvollkommen unterrichtet sind, und hierüber wird allein die Zukunft Ew. Durchlaucht Aufklärung geben. ¶ Aber ein Punkt ist in Ew. Durchlaucht Schreiben, den ich

hervorheben muss. ¶ Ich habe in meinem Briefe vom 18. d. M. die Eckernförder Vorgänge Ihnen gegenüber in so milder und schonender Form dargestellt, als es mir möglich war. ¶ Wenn Ew. Durchlaucht nun meine Anschauungen als nicht richtig bezeichnen, so liegt das in Ihrer subjectiven Auffassung; wenn Ew. Durchlaucht aber auch die von mir angeführten Thatsachen als nicht richtig bezeichnen, so sind dieselben actenmässig festgestellt, und ich muss es Ew. Durchlaucht aussprechen, dass ich Ihnen nicht die Berechtigung zuerkenne, mir in dieser Ausdrucksweise zu schreiben, und dass ich diesen Ausdruck auf das Bestimmteste zurückweise.

No. 2021. Preussen, 31. Oct. 1865.

Schloss Gottorff, den 31. Oct. 1865. *Frhr. v. Manteuffel.*

A. d. Prinzen **Friedrich** von Schl.-H.-S.-A. Durchl., *Nienstedten.*

No. 2022.

SCHLESWIG-HOLSTEIN (AUGUSTENBURG). — Erwiderung des Herzogs Friedrich auf das vorstehende Schreiben des General v. Manteuffel. —

Ew. Excellenz geehrtes Schreiben vom 31. v. M. habe ich empfangen. ¶ Wenn Sie die in meinem Schreiben enthaltene Bemerkung über das Wünschenswerthe der Berufung einer frei gewählten Landesvertretung als einen Rathschlag aufgefasst haben, so war meine Absicht eine andere. Während Sie meinen, ich sei über die eigentliche Stimmung der Bevölkerung des Herzogthums Schleswig unvollkommen unterrichtet, wünschte ich lediglich, dass alle Welt darüber auf dem einfachsten Wege vollkommen unterrichtet werde. ¶ Wenn Ew. Excellenz mich nicht für berechtigt halten, von Ihnen angeführte Thatsachen als richtig nicht anzuerkennen, so ist auch hierin mein Standpunkt ein anderer. Ich trage kein Bedenken, Jedermann das Recht zuzugestehen, mir gegenüber sich gegen thatsächliche Behauptungen zu verwahren, zumal dann, wenn meine Kenntniss nicht auf eigener Wahrnehmung beruht. ¶ Im Uebrigen sehe ich mich nicht veranlasst, auf Ihren Brief näher einzugehen, und betrachte meinerseits diese Correspondenz als geschlossen.

No. 2022. Schleswig-Holstein (Augustenburg), 17. Nov. 1865.

Nienstedten, den 17. Nov. 1865. **Friedrich.**

Sr. Exc. Herrn Freih. v. **Manteuffel**, K. Pr. Generall., *Schleswig.*

No. 2023.

DEUTSCHE BUNDESVERSAMMLUNG. — Zwei und zwanzigste Sitzung v. 27. Juli 1865. — (§ 148) Antrag auf definitive Lösung der schwebenden Fragen, Aufnahme Schleswigs in den Bund und Uebernahme der Kriegskosten durch denselben. —

Bayern, Königreich Sachsen und Grossherzogthum Hessen. Als die hohe Bundesversammlung am 7. December v. J. beschloss, das Executionsverfahren in den Herzogthümern Holstein und Lauenburg als beendigt anzusehen und damit den Besitz und die Verwaltung dieser Herzogthümer thatsächlich an die höchsten Regierungen von Oesterreich und Preussen zu überlassen, geschah dies unverkennbar in der dabei auch mehrseitig ausgesprochenen

No. 2023. Deutscher Bund, 27. Juli 1865.

No. 2023. Deutscher Bund, 27. Juli 1865.

Hoffnung und Erwartung, es sei nunmehr der Zeitpunkt gekommen, in welchem die Herzogthümer einem geordneten, allseitig anerkannten Rechtszustande und ihrer eigenen Selbständigkeit unter ihrem angestammten Fürsten zurückzugeben seien, und es werde die Erreichung dieses Zieles durch jenen Beschluss erleichtert. ¶ Dieser Erwartung hat sodann die hohe Bundesversammlung durch ihren Beschluss vom 6. April d. J. *) bestimmten Ausdruck gegeben. Dieselbe ist jedoch bis jetzt nicht in Erfüllung gegangen, indem sich fortwährende Meinungsverschiedenheiten über das Erbrecht und über die künftigen Beziehungen dieser Länder zu dem Königreich Preussen entgegengestellt haben. ¶ Es kann indessen nicht verkannt werden, dass die längere Dauer des provisorischen Zustandes sowohl für die Herzogthümer selbst als für deren Beziehungen zum Deutschen Bunde von den nachtheiligsten Wirkungen ist, in welcher Hinsicht vorzüglich darauf hinzuweisen sein wird, dass die verfassungsmässige Thätigkeit der Gesetzgebung in den Herzogthümern stillsteht, dass die Stimme derselben in der Bundesversammlung suspendirt ist und dass die von denselben zu stellenden Bundescontingente nicht formirt sind. ¶ Bei dieser Sachlage erscheint es eben so zweckmässig als rechtlich und politisch begründet, zur Lösung der noch schwebenden Fragen die Mitwirkung frei gewählter Vertreter der Länder, um deren Wohl und Wehe es sich handelt, in Anspruch zu nehmen. ¶ Auf diesem Wege würde zugleich dasjenige Mittel, welches die Sicherstellung der geschichtlich begründeten untrennbaren Verbindung des Herzogthums Schleswig mit Holstein und den Schutz beider gegen fremde Angriffe am naturgemässesten gewährt, nämlich die Aufnahme des Herzogthums Schleswig in den Deutschen Bund, eingeleitet und verwirklicht werden können, insofern eine gemeinschaftliche Vertretung dieser beiden Herzogthümer berufen würde. ¶ Zugleich würde damit die Möglichkeit geboten werden, dass die hohe Bundesversammlung durch Verzichtleistung auf den Ersatz der Executionskosten bezüglich Holsteins und Lauenburgs und durch Betheiligung an Tragung der Kriegskosten bezüglich des Herzogthums Schleswig die finanziellen Zustände dieser Länder von denjenigen Lasten befreite, welche sehr schwer auf dieselben drücken würden, wenn sie jene Kosten allein tragen sollten. ¶ Gewiss hat es daher sämmtlichen Deutschen Regierungen zu aufrichtiger Befriedigung gereicht, dass dem Vernehmen nach zwischen den hohen Regierungen von Oesterreich und Preussen wegen Einberufung einer Vertretung der Herzogthümer bereits Verhandlungen gepflogen wurden. Hat die Bundesversammlung diesem Vorhaben ihren Beifall und ihre vollste Aufmerksamkeit zu widmen um so mehr Ursache, als sie sich von den zu erwartenden Kundgebungen der einzuberufenden Vertretung eine willkommene und werthvolle Unterlage für ihre ferneren Berathungen und Beschlüsse versprechen darf, so ist andererseits dadurch die Hoffnung gerechtfertigt, dass die hohen Regierungen von Oesterreich und Preussen selbst die oben angedeuteten Gesichtspunkte und Anschauungen nicht zurückweisen. ¶ In diesem Vertrauen stellen daher die Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen den Antrag: Hohe Bundesversammlung wolle beschliessen:

*) No. 1839.

1) an die höchsten Regierungen von Oesterreich und Preussen die Anfrage zu richten, welche Schritte sie gethan haben oder zu thun beabsichtigen, um eine definitive Lösung der bezüglich der Elbherzogthümer noch schwebenden Fragen herbeizuführen; ob dieselben insbesondere gesonnen sind, eine aus freien Wahlen hervorgehende allgemeine Vertretung des Herzogthums Holstein in Gemeinschaft mit einer gleichen Vertretung des Herzogthums Schleswig zur Mitwirkung bei jener Lösung zu berufen, und für welchen Zeitpunkt diese Einberufung, deren Beschleunigung sich aus den angeführten Gründen als in hohem Grade wünschenswerth darstellt, in Aussicht genommen werden kann;
2) an dieselben höchsten Regierungen das Ersuchen zu stellen, dass sie auf die Aufnahme des Herzogthums Schleswig in den Deutschen Bund hinwirken;
3) für diesen Fall und sobald die in dem Bundesbeschlusse vom 6. April d. J. ausgesprochene vertrauensvolle Erwartung sich erfüllt haben werde, die Bereitwilligkeit zum Verzicht auf den Ersatz der Executionskosten bezüglich Holsteins und Lauenburgs und zur Betheiligung an Tragung der Kriegskosten bezüglich Schleswigs zu erklären, sei es, dass der Bund in seiner Gesammtheit für die Kriegskosten aufkommt, oder dass ein verhältnissmässiger Antheil von denjenigen Bundesstaaten, welche an der Kriegführung nicht betheiligt waren, übernommen wird.

Präsidium schlägt vor, den eben vernommenen Antrag dem Ausschusse für die Holstein-Lauenburgische Verfassungsangelegenheit zuzuweisen.

Sämmtliche Herren Gesandten — mit Ausnahme des Königlich Niederländischen, Grossherzoglich-Luxemburgischen Herrn Gesandten, welcher sich der Abstimmung enthielt, — traten dem Präsidialvorschlage bei, der substituirte Herr Gesandte der fünfzehnten Stimme, indem er für Oldenburg noch äusserte, dass er sich, insofern in dem bezüglich seiner geschäftlichen Behandlung zur Abstimmung stehenden Antrage der allerhöchsten Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen mehrfach auf den Bundesbeschluss vom 6. April d. J. Bezug genommen sei, veranlasst sehe, die gelegentlich jenes Beschlusses zur 11. diesjährigen Sitzung vom 6. April (Prot. § 74) abgegebene Erklärung ausdrücklich zu wiederholen und ausserdem der Grossherzoglichen Regierung jede weitere Erklärung vorzubehalten.

Hierauf wurde beschlossen: den Antrag der Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen dem Ausschusse für die Holstein-Lauenburgische Verfassungsangelegenheit zuzuweisen.

No. 2024.

DEUTSCHE BUNDESVERSAMMLUNG. — Fünf und zwanzigste Sitzung vom 24. August 1865. — (§ 172) Mittheilung der Convention von Gastein. —

No. 2024. Deutscher Bund, 24. Aug. 1865.

Oesterreich und Preussen. Die hohen Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen haben in der 22. Bundestags-Sitzung vom 27. Juli d. J. in einem deshalb gestellten Antrage den Wunsch ausgesprochen, dass die Regierungen von Oesterreich und Preussen über die Schritte, welche sie zur Herbeiführung einer definitiven Lösung der bezüglich der Elbherzogthümer noch schwebenden Fragen gethan oder zu thun beabsichtigten, eine Mittheilung an den Bund gelangen lassen möchten, und haben dabei zugleich anderweiten Wünschen Ausdruck gegeben, welche auf diese Angelegenheit Bezug haben. ¶ Die Regierungen von Oesterreich und Preussen haben inzwischen es für die nächste Aufgabe erachten müssen, die Schwierigkeiten zu beseitigen, welche sich aus der bisherigen nicht zweckentsprechenden Form der Ausübung der durch den Art. III des Wiener Friedens vom 30. October 1864 erworbenen Rechte ergeben hatten, um dadurch Raum für die weiteren Verhandlungen über eine definitive Lösung zu gewinnen. Es gereicht den beiden Regierungen zur Befriedigung, hoher Bundesversammlung nunmehr mittheilen zu können, dass es ihren Bemühungen gelungen ist, über eine jene Schwierigkeiten beseitigende Organisation der Verwaltung der Herzogthümer sich zu verständigen, und die Gesandten sind beauftragt, hoher Bundesversammlung von dem in dieser Beziehung am 14. August l. J. verabredeten und am 20. desselben Monats von den beiden Monarchen genehmigten Uebereinkommen durch die Ueberreichung der anliegenden beglaubigten Abschriften desselben Mittheilung zu machen. *) ¶ Hohe Bundesversammlung wird hieraus die Ueberzeugung gewinnen, dass die Regierungen von Oesterreich und Preussen ernstlich bemüht sind, die Frage der Elbherzogthümer einer definitiven Lösung zuzuführen und die derselben noch entgegenstehenden Schwierigkeiten zu beseitigen. ¶ Die einzelnen in dem Antrage der hohen Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen erwähnten Punkte sind gegenwärtig Gegenstand der weiteren Verhandlung zwischen Oesterreich und Preussen. Die beiden Regierungen hegen die Zuversicht, dass diese Verhandlungen zu einem allseitig befriedigenden Ergebniss führen werden, und ersuchen die hohe Bundesversammlung, diesem Ergebniss mit Vertrauen entgegenzusehen, indem sie sich weitere Mittheilungen vorbehalten.

Preussen. Der so eben abgegebenen Erklärung sieht sich der Gesandte hinzuzufügen veranlasst, dass seine allerhöchste Regierung nicht verfehlen wird, hoher Bundesversammlung über den bevorstehenden Regierungsantritt Seiner Majestät des Königs in Lauenburg und die Vertretung dieses Herzogthums im Bunde seiner Zeit geeignete Anzeige zu machen.

Präsidium beantragt, diese Erklärungen nebst der überreichten Ueber-

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*) No. 2011.

einkunft dem Ausschusse für die Holstein-Lauenburgische Verfassungsangelegenheit zuzuweisen.

No. 2024. Deutscher Bund, 24. Aug. 1865.

Umfrage.

Oesterreich, Preussen und Bayern: treten dem Präsidialantrage bei.

Königreich Sachsen. Da durch die eben mitgetheilte, zwischen den höchsten Regierungen von Oesterreich und Preussen abgeschlossene Uebereinkunft das Herzogthum Lauenburg berührt wird, so sieht sich der Gesandte veranlasst, die Erbansprüche des Königlichen Hauses an gedachtes Herzogthum unter Bezugnahme auf die in der 1. Sitzung des Jahres 1847 (Prot. § 13) und später wiederholt zu Protokoll gegebenen Erklärungen ausdrücklich zu verwahren. Uebrigens tritt er dem Präsidialantrage bei.

Hannover, Württemberg und Baden: treten dem Antrage des Präsidiums bei.

Kurhessen. Der substituirte Gesandte stimmt dem Präsidialantrage zu, muss jedoch hierbei auf die bei der hohen Bundesversammlung am 4. August und 17. November v. J. überreichten Eingaben in Betreff der Erbansprüche Seiner Hoheit des Prinzen Friedrich Wilhelm von Hessen auf das Herzogthum Lauenburg Bezug nehmen und alle daraus herzuleitenden Rechte, sowie jede etwaige weitere Aeusserung vorbehalten.

Grossherzogthum Hessen tritt dem Präsidialantrage bei.

Niederlande wegen Luxemburg und Limburg. Der Gesandte enthält sich der Abstimmung.

Grossherzoglich- und Herzoglich-Sächsische Häuser. Unter Bezugnahme auf die bei früheren Anlässen zu Protokoll gegebenen Erklärungen in Betreff des dem Durchlauchtigsten Sachsen-Ernestinischen Hause zustehenden Rechtes auf Succession im Herzogthum Lauenburg, stimmt der substituirte Gesandte dem Antrage des Präsidiums bei, indem er den hohen Regierungen der Curie noch jede weitere Erklärung vorbehält.

Braunschweig und Nassau. Der substituirte Gesandte stimmt dem Präsidialantrage zu, muss aber für die Herzoglich-Nassauische Regierung der überreichten Vereinbarung und den vernommenen Erklärungen gegenüber auf die in der 8. diesjährigen Sitzung zu Protokoll gegebene Verwahrung in Betreff der Erbansprüche Ihrer Hoheit der Frau Herzogin Adelheid Marie zu Nassau, gebornen Prinzessin zu Anhalt, und Höchstderen Descendenten auf das Herzogthum Lauenburg Bezug nehmen und jede etwaige Erklärung vorbehalten.

Mecklenburg-Schwerin und Mecklenburg-Strelitz. Der Gesandte tritt unter Bezugnahme auf die wegen der eventuellen Erbansprüche des Grossherzoglichen Hauses auf das Herzogthum Lauenburg wiederholt zu Protokoll gegebenen Erklärungen und Verwahrungen dem Präsidialantrage bei.

Oldenburg, Anhalt und Schwarzburg. Der substituirte Gesandte stimmt dem Antrag des Präsidiums unter Hinweis auf die früher im Namen der Herzoglich Anhaltischen Regierung in der hohen Bundesversammlung bezüglich der agnatischen Erbfolgerechte des Durchlauchtigsten Herzog-

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lichen Gesammthauses Anhalt, auf das Herzogthum Lauenburg abgegebenen Erklärungen und eingelegten Verwahrungen zu.

Die sechzehnte und die siebenzehnte Stimme traten dem Präsidialantrage bei, worauf derselbe zum Beschlusse erhoben wurde.

No. 2025.

DEUTSCHE BUNDESVERSAMMLUNG. — Sieben und zwanzigste Sitzung vom 4. Nov. 1865. — (§ 186) Erneuerter Antrag auf definitive Lösung der schwebenden Fragen. —

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Bayern, Königreich Sachsen und Grossherzogthum Hessen. In der Sitzung der hohen Bundesversammlung vom 27. Juli d. J. haben die Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen einen Antrag gestellt, welcher auf die Herstellung eines allseitig anerkannten Rechtszustandes in den Elbherzogthümern gerichtet war und dem Ausschusse für die Holstein-Lauenburgische Verfassungsangelegenheit zugewiesen wurde. ¶ Unter Bezugnahme auf diesen Antrag haben in der Sitzung vom 24. August d. J. die höchsten Regierungen von Oesterreich und Preussen der Bundesversammlung eine zwischen ihnen am 14. August d. J. verabredete und am 20. desselben Monats von den beiden hohen Monarchen genehmigte Uebereinkunft mitgetheilt, welche die Verwaltung der Herzogthümer provisorisch ordnet. Damit war die Eröffnung verbunden, dass die beiden höchsten Regierungen ernstlich bemüht seien, die Frage der Elbherzogthümer einer definitiven Lösung zuzuführen und das Ersuchen gestellt, hohe Bundesversammlung wolle dem Ergebnisse der weiteren Verhandlungen zwischen Oesterreich und Preussen mit Vertrauen entgegensehen, indem zugleich weitere Mittheilungen vorbehalten wurden. Auch diese Vorlagen wurden dem obengenannten Ausschusse zugewiesen. ¶ In einer Sitzung dieses Ausschusses vom 31. August d. J. beantragten die Gesandten von Bayern und Königreich Sachsen die sofortige Erstattung eines Vortrages über den Antrag vom 27. Juli d. J., da dieser durch die gemeinsame Erklärung der höchsten Regierungen von Oesterreich und Preussen vom 24. August d. J. nicht als erledigt angesehen werden könne und von einem entsprechenden Bundesbeschlusse ein Einfluss auf die Gestaltung und die Ergebnisse der noch schwebenden Verhandlungen erwartet werden dürfe. ¶ Die Gesandten von Oesterreich und Preussen erklärten hierauf, dass auch sie durch ihre Erklärung vom 24. August d. J. den Antrag vom 27. Juli d. J. keineswegs als vollständig erledigt ansähen, sich aber doch im Hinblicke auf die bisher nicht zum Abschlusse gebrachten Verhandlungen ihrer Regierungen über den weiteren Inhalt des Antrages zur Zeit nicht zu äussern, mithin an der Erstattung eines Vortrages einstweilen nicht mitzuwirken vermöchten. Hierauf beschloss die Majorität des Ausschusses von einer Vortragserstattung einstweilen Abstand zu nehmen, und die hohe Bundesversammlung, welcher in der 26. Sitzung vom 31. August d. J. über diese Ausschussverhandlung Mittheilung gemacht wurde,

Bayern, Königreich Sachsen und Grossherzogthum Hessen, welche eine Vertagung nicht für angemessen erachteten, bevor über ihren Antrag vom 27. Juli d. J. Beschluss gefasst sei. ¶ Die antragstellenden Regierungen können nach reiflicher Erwägung nur die Ueberzeugung theilen, dass der Antrag vom 27. Juli d. J. durch die Mittheilungen vom 24. August d. J. in keiner Weise erledigt ist, und dass es eben so sehr im Rechte und Interesse der hohen Bundesversammlung selbst als der Herzogthümer und ihres erbberechtigten Fürsten liegt, dass über jenen Antrag baldmöglichst Beschluss gefasst werde. ¶ Abgesehen davon, dass für die in Aussicht gestellten weiteren Mittheilungen der höchsten Regierungen von Oesterreich und Preussen kein Zeitpunkt bestimmt worden ist, würde ja durch das Abwarten jener Mittheilungen der ganze Zweck des Antrages vereitelt und von Seiten der hohen Bundesversammlung auf jede Mitwirkung zur definitiven Regelung der Angelegenheiten der Herzogthümer verzichtet, wozu wenigstens die Uebereinkunft vom 20. August d. J. in keiner Weise eine Veranlassung bietet. ¶ Die antragstellenden Regierungen halten es jetzt nicht für angemessen, in eine Erörterung über diese Convention einzugehen, indem sie deshalb der Berathung und Vortragserstattung des Ausschusses nicht vorgreifen wollen. ¶ Sie begnügen sich vielmehr, hervorzuheben, dass gegenüber der definitiven Ueberweisung des Herzogthums Lauenburg an Seine Majestät den König von Preussen, welcher die freie Zustimmung der Bevölkerung und ihrer Vertreter vorausging und nachfolgte, jedenfalls die Frage der Zulässigkeit des bundesrechtlichen Austrägalverfahrens über die von mehreren Bundesgliedern erhobenen Erbansprüche offen bleibe und dass die Modalitäten des bezüglich der Herzogthümer Schleswig und Holstein getroffenen Provisoriums, weit entfernt, den Antrag vom 27. Juli d. J. überflüssig zu machen, vielmehr die dringendste Veranlassung bieten, im Geiste dieses Antrages sich auszusprechen. ¶ Um von allen übrigen Punkten zu schweigen, genügt es, ins Auge zu fassen, dass das genannte Provisorium gerade von dem Hauptsatze abweicht, welcher bisher sowohl von den Herzogthümern selbst als von der hohen Bundesversammlung der Vertheidigung und Wahrung ihrer Rechte zu Grunde gelegt worden ist, — von dem Grundsatze der untheilbaren Zusammengehörigkeit beider Lande, und dass von einer Betheiligung der Bevölkerung und ihrer Vertreter an der endgültigen Regelung weder in der Convention vom 20. August d. J., noch in den Erklärungen vom 24. August d. J. die mindeste Andeutung enthalten ist. ¶ Die antragstellenden Regierungen erachten daher die hohe Bundesversammlung ebenso berechtigt als verpflichtet, gerade jetzt, während die Verhandlungen über die definitive Ordnung noch schweben, sich auszusprechen und darauf hinzuwirken, dass das Resultat dieser Verhandlungen den allseitigen Rechten entspreche. Da jedoch kein Mittel zu Gebote steht, die Majorität des Ausschusses zur Vortragserstattung zu bestimmen, so wenden sich die genannten Regierungen unmittelbar an die hohe Bundesversammlung, indem sie den Antrag vom 27. Juli d. J. in der durch die späteren Ereignisse gebotenen Modification wiederholen und um Abstimmung über denselben ohne Verweisung an den Ausschuss ersuchen. ¶ Aus diesen Erwägungen stellen die genannten Regierungen den Antrag: Hohe beschloss, sich bis zum 26. October d. J. zu vertagen gegen die Stimmen von

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Bundesversammlung wolle beschliessen: an die höchsten Regierungen von Oesterreich und Preussen das Ersuchen zu richten, ¶

1) dass sie baldigst eine aus freien Wahlen hervorgehende allgemeine Vertretung des Herzogthums Holstein berufen, um zur definitiven Lösung der bezüglich der Elbherzogthümer noch schwebenden Fragen mitzuwirken;

2) dass sie auf die Aufnahme des Herzogthums Schleswig in den Deutschen Bund hinwirken.

Zugleich beantragen die genannten Regierungen, dass über diesen ihren Antrag in einer der nächsten Sitzungen der hohen Bundesversammlung abgestimmt werde. ¶ Indem die genannten Regierungen solchem nach ihren unterm 27. Juli d. J. eingebrachten Antrag, soviel die Punkte 1 und 2 desselben betrifft, hiermit zurückziehen, haben sie dagegen über den Punkt 3 letztgedachten Antrages der Vortragserstattung des Ausschusses entgegenzusehen.

Nachdem die Herren Gesandten von Oesterreich und Preussen unter Berufung auf § 24 der Geschäftsordnung Aussetzung der Abstimmung beantragt hatten, wurde auf Präsidialvorschlag, nach stattgefundener vertraulicher Erörterung, eine Frist von 14 Tagen zur Abstimmung über die geschäftliche Behandlung des vorliegenden Antrages festgesetzt.

No. 2025a.

DEUTSCHE BUNDESVERSAMMLUNG. — Acht und zwanzigste Sitzung v. 18. Nov. 1865. — (§ 205) Abstimmung über die geschäftliche Behandlung des Antrags vom 4. November. —

No. 2025a. Deutscher Bund, 18. Nov. 1865.

Nachdem Präsidium geäussert hatte, dass dem in der letzten Sitzung gefassten Beschlusse gemäss die Abstimmung über die geschäftliche Behandlung des in derselben Sitzung eingebrachten Antrages der Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen stattzufinden habe, wurde nachstehende Erklärung der Herren Gesandten von Oesterreich und Preussen zu Protokoll genommen:

Oesterreich und Preussen. Die Gesandten sind beauftragt, Namens ihrer allerhöchsten Regierungen mit Bezug auf den in der Bundestags-Sitzung vom 4. d. M. von der Königlich-Bayerischen, der Königlich-Sächsischen und der Grossherzoglich-Hessischen Regierung zur Schleswig-Holsteinischen Angelegenheit gestellten Antrag Folgendes zu erklären: ¶ Bereits früher haben die Regierungen von Oesterreich und Preussen die Absicht ausgesprochen, auf eine Berufung der Ständeversammlung des Herzogthums Holstein Bedacht nehmen zu wollen. Es ist in diesen Intentionen auch jetzt eine Aenderung nicht eingetreten, nachdem die Ausübung der Souverainetätsrechte im Herzogthum Holstein auf Seine Majestät den Kaiser von Oesterreich übergegangen ist, jedoch muss die Wahl des Zeitpunktes für die Berufung der Stände noch weiterer Erwägung vorbehalten bleiben und kann der gegenwärtige Augenblick als dazu nicht geeignet erscheinen. Seiner Zeit werden die beiden allerhöchsten Regierungen

gern bereit sein, der hohen Bundesversammlung, sobald die Sache gediehen sein wird, weitere Mittheilung zukommen zu lassen. ¶ Auf die unter Punkt 2 des Antrages gestellte Anfrage wegen Aufnahme des Herzogthums Schleswig in den Deutschen Bund sind die beiden Regierungen in der Lage, zu erwidern, dass sie in eine eingehende Erörterung dieser Frage für jetzt einzutreten aus massgebenden Gründen sich nicht veranlasst sehen können. ¶ Wenn auch nach dem Dafürhalten der beiden allerhöchsten Regierungen der vorbezeichnete Antrag mit dieser Erklärung im Wesentlichen schon seine Erledigung finden dürfte, so sind gleichwohl die Gesandten, mit Rücksicht auf den Umstand, dass eventuell im Ausschusse sich die Gelegenheit weiterer Aeusserung und Erörterung ergeben dürfte, beauftragt, die Verweisung des Antrages nebst dieser von ihnen abgegebenen Erklärung an den Ausschuss für die Holstein-Lauenburgische Verfassungsangelegenheit zu befürworten.

Umfrage.

Oesterreich und Preussen. Die Gesandten beziehen sich auf ihre soeben abgegebene Erklärung.

Bayern. Der Gesandte stimmt nach dem in der letzten Sitzung eingebrachten Antrage für Festsetzung eines Termins zur Abstimmung über denselben ohne Verweisung an den Ausschuss.

Königreich Sachsen: wie Bayern.

Hannover. Der Gesandte stimmt für Verweisung des Antrages von Bayern, Königreich Sachsen und Grossherzogthum Hessen, sowie der eben vernommenen Erklärung von Oesterreich und Preussen an den Ausschuss.

Württemberg: ebenso.

Baden: wie Bayern.

Kurhessen. Der Gesandte stimmt für Verweisung des Antrages von Bayern, Königreich Sachsen und Grossherzogthum Hessen, sowie der Erklärung von Oesterreich und Preussen an den Ausschuss.

Grossherzogthum Hessen. Der Gesandte stimmt für Festsetzung eines Termins zur Abstimmung über den Antrag ohne Verweisung an den Ausschuss.

Niederlande wegen Luxemburg und Limburg. Der Gesandte enthält sich der Abstimmung.

Grossherzoglich- und Herzoglich-Sächsische Häuser. Der Gesandte hat für die Curie dem Antrage dahin beizustimmen, dass ohne Verweisung desselben an den betreffenden Ausschuss binnen kürzester Frist von hoher Bundesversammlung über den Antrag abgestimmt werde. Zugleich hat der Gesandte für die Herzoglich-Sachsen-Altenburgische Regierung deren abweichendes Votum für Verweisung an den Ausschuss zu Protokoll zu constatiren.

Braunschweig und Nassau. Der Gesandte schliesst sich der Abstimmung des Königlich-Bayerischen Herrn Gesandten an.

Mecklenburg-Schwerin und Mecklenburg-Strelitz. Der Gesandte stimmt für Verweisung des Antrages von Bayern, Königreich Sachsen

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und Grossherzogthum Hessen, sowie der Erklärung von Oesterreich und Preussen an den Ausschuss.

Oldenburg, Anhalt und Schwarzburg: ebenso.

Liechtenstein, Reuss, Schaumburg-Lippe, Lippe, Waldeck und Hessen-Homburg. Der Gesandte stimmt für Festsetzung eines Abstimmungstermins ohne Verweisung an den Ausschuss.

Freie Städte. Für die Curie stimmt der Gesandte für vorgängige Verweisung des Antrages an den Ausschuss, für Hamburg hat er sich für den Antrag zu erklären, und für Frankfurt vorsorglich eine Erklärung vorzubehalten.

Hierauf wurde beschlossen: den in das Protokoll der vorigen Sitzung niedergelegten Antrag der hohen Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen, sowie die von den Herren Gesandten von Oesterreich und Preussen abgegebene Erklärung dem Ausschusse für die Holstein-Lauenburgische Verfassungsangelegenheit zuzuweisen.

Bayern, Königreich Sachsen und Grossherzogthum Hessen. Nachdem der von den Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen in der letzten Sitzung gestellte Antrag die Zustimmung hoher Bundesversammlung nicht erlangt hat, sehen sich gedachte Regierungen zu nachstehender Erklärung veranlasst.

Als im Jahre 1846 das Bestreben der Krone Dänemark, die Successionsverhältnisse der Herzogthümer Holstein und Schleswig umzugestalten, durch den offenen Brief Seiner Majestät des Königs Christian VIII. hervorgetreten und dagegen Schleswig-Holsteinischer Seits am Bunde Beschwerde erhoben war, sprach die hohe Bundesversammlung, geleitet von dem Grundsatze, dass im Deutschen Bunde das Bundesrecht und nicht politische Convenienz entscheide, die Erwartung aus, es werde die endliche Feststellung der in dem offenen Briefe besprochenen Verhältnisse nur unter Beachtung der Rechte Aller und Jeder, insbesondere aber unter Beachtung der Rechte des Deutschen Bundes, erbberechtigter Agnaten und der gesetzmässigen Landesvertretung Holsteins stattfinden. Zugleich behielt sich damals die hohe Bundesversammlung vor, eintretenden Falles ihre verfassungsmässige Competenz geltend zu machen. Den Anlass zu solcher Geltendmachung gab das Ableben Seiner Majestät des Königs Friedrich VII. von Dänemark, Herzogs von Holstein und Lauenburg. Der Stellung entsprechend, welche die Bundesversammlung zu der Holsteinischen Successionsfrage durch den Beschluss vom 17. September 1846 bereits im Voraus eingenommen hatte und dem damals befolgten Grundsatze getreu, beschloss diese hohe Versammlung in ihrer Sitzung vom 28. November 1863 die zeitweilige Suspendirung der Führung der Holstein-Lauenburgischen Stimme und die Nichtzulassung des bisherigen Königlich-Dänischen, Herzoglich-Holstein-Lauenburgischen Gesandten. In der Sitzung vom 7. December beschloss zwar die Bundesversammlung, und zwar nur mit einer Stimme Majorität, die Verhängung der Bundesexecution über gedachte Herzogthümer gegen die von der Minorität gewollte Besetzung für den rechtmässigen Nachfolger; es wurde jedoch sowohl in den Erklärungen der antragstellenden Regierungen, als in den

Motiven des Bundesbeschlusses hervorgehoben, dass damit der Erbfolgefrage nicht vorgegriffen werden solle. ¶ Durch den Bundesbeschluss vom 25. Februar 1864 wurde ferner festgestellt, dass die am 28. November 1863 zur Vorlage gekommene Vollmacht Königs Christian IX. von Dänemark für den Freiherrn von Dirckinck-Holmfeld aus dem Titel des Londoner Vertrages nicht angenommen werden könne, vielmehr der Ausschuss über die Erbfolge in Holstein und Lauenburg zum Zwecke der Entscheidung über die vorliegenden Vollmachten, mit möglichster Beschleunigung, weiteren Vortrag erstatten solle, ohne dabei diesen Vertrag zur Grundlage zu nehmen. ¶ Auf der zu London am 25. April eröffneten Conferenz erklärte sich der Bevollmächtigte des Bundes, in Uebereinstimmung mit den Bevollmächtigten von Oesterreich und Preussen, am 28. Mai 1864 „für die vollständige Trennung der Herzogthümer Schleswig und Holstein vom Königreiche Dänemark und für ihre Vereinigung in einen einzigen Staat unter der Souverainetät des Erbprinzen von Schleswig-Holstein-Sonderburg-Augustenburg, der in den Augen Deutschlands nicht allein die meisten Rechte auf die Nachfolge in den genannten Herzogthümern geltend zu machen vermöge, und dessen Anerkennung Seitens des Deutschen Bundes daher gesichert sei, sondern der auch unzweifelhaft die Stimme der weitaus überwiegenden Mehrzahl der Bevölkerung dieser Länder für sich habe," und die Bundesversammlung genehmigte unterm 2. Juni desselben Jahres diese Erklärung. ¶ Die hohen Regierungen von Oesterreich und Preussen, welche laut ihrer dem Bunde unterm 14. Januar 1864 gemachten Eröffnung erklärt haben, den gegen Dänemark unternommenen Krieg für die Rechte des Deutschen Bundes führen zu wollen, deren Bevollmächtigte auf der Londoner Conferenz desselben Jahres die Hinfälligkeit des Vertrages von 1852 und des daraus hervorgegangenen Dänischen Thronfolgegesetzes in Bezug auf die Herzogthümer Schleswig-Holstein anerkannt hatten, schlossen hierauf mit Dänemark einen Frieden, kraft dessen sie sich die vom Könige Christian IX. aus eben diesen Staatsacten abgeleiteten Rechte abtreten liessen, ohne die Erbrechte, noch die Zustimmung der Bevölkerung, noch diejenige des Bundes vorzubehalten. ¶ Die Bundesversammlung erhob hiergegen keinen Einspruch in dem von den Deutschen Regierungen mehrfach geäusserten Vertrauen, dass die Form, in welcher die von den Deutschen Regierungen und der Deutschen Nation erstrebte Losreissung jener Deutschen Länder von fremder Herrschaft vollzogen wurde, den Anforderungen des Rechts nichts vergeben werde. ¶ In dem nämlichen Vertrauen, welches auch bei dieser Gelegenheit mehrseitig ausgesprochen wurde, willigte die Bundesversammlung in die Entfernung der Bundestruppen aus den Herzogthümern Holstein und Lauenburg. Sie gab demselben endlich erneuerten Ausdruck durch ihren Beschluss vom 6. April d. J. ¶ Die Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen verzichten darauf, in eine nähere Darlegung dessen einzugehen, was Seitens der hohen Regierungen von Oesterreich und Preussen inmittelst geschehen ist. Es erscheint ihnen müssig, daran zu erinnern, dass Schritte geschehen sind, welche mehr und mehr darauf abzielen, die nationale Frage von Schleswig-Holstein einem thatsächlichen Abschlusse zuzuführen, ohne die Stimme des erbberechtigten Fürsten, der Herzogthümer selbst und des Deut-

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schen Bundes zu hören und zur Geltung kommen zu lassen. ¶ Wenn die Mehrheit hoher Bundesversammlung, wie es den Anschein gewinnt, gemeint ist, sich diesem Verlaufe gegenüber, wenn nicht ausdrücklich billigend, doch stillschweigend zu verhalten, so haben die genannten drei Regierungen diesen Mehrheitsbeschluss, so tief sie denselben — ihrer innersten Ueberzeugung nach — beklagen müssen, dennoch zu achten, und es steht nicht in ihrer Macht, ihren Bestrebungen für eine andere Haltung des Bundes den gewünschten Erfolg zu verschaffen. Wohl aber glauben sie, nachdem sie alle ihnen nach der Bundesverfassung zu Gebote stehenden Mittel erschöpft haben, sich selbst schuldig zu sein, zu erklären, dass, sofern und solang nicht dem Bunde zu einer von der Grundlage des Rechtes ausgehenden Berathung und Beschlussfassung Aussicht geboten wird, sie ihre Aufgabe und Thätigkeit in dieser Angelegenheit innerhalb der Bundesversammlung als abgeschlossen betrachten und sich auf eine laute und entschiedene Verwahrung gegen jede dieser Grundlage fremde Abmachung beschränken werden.

Oesterreich und Preussen. Die Gesandten müssen Ausführungen gegenüber, wie solche in der so eben abgegebenen Erklärung enthalten sind, Verwahrung einlegen, beziehen sich im Uebrigen auf die bisherigen Aeusserungen und Mittheilungen ihrer Allerhöchsten Regierungen und behalten Allerhöchstdenselben jede etwa für nöthig erachtete weitere Erklärung vor.

Präsidium. Insofern im Schlusssatze der für Bayern, Königreich Sachsen und Grossherzogthum Hessen nach gezogenem Beschlusse abgegebenen Erklärung ein Vorwurf gegen hohe Bundesversammlung erblickt werden könnte, muss Präsidium dagegen alle Rechte und Zuständigkeiten der hohen Bundesversammlung wahren unter Zurückbeziehung auf die in der Sache gefassten Bundesbeschlüsse.

Auf Präsidialvorschlag wurde sodann beschlossen: die von den Regierungen von Bayern, Königreich Sachsen und Grossherzogthum Hessen abgegebene Erklärung, sowie die auf dieselbe erfolgten Erklärungen an den Ausschuss für die Holstein-Lauenburgische Verfassungsangelegenheit gelangen zu lassen.

No. 2026.

PREUSSEN. — Min. d. Ausw. an die Kön. Vertreter bei den Deutschen Höfen. — Aufforderung zur Unterdrückung d. Sechsunddreissiger Ausschusses und anderer Vereine.*) —

No. 2026. Preussen, 31. Dec. 1863.

Die Vorgänge, welche am 21. d. Mts. in Frankfurt a. M. stattgefunden, haben die ernste Aufmerksamkeit der Königlichen, wie der Kaiserlich Oesterreichischen Regierung auf sich ziehen müssen. Sie bilden den Schlussstein einer Reihe von Bestrebungen, welche seit längerer Zeit Deutschland in Aufregung erhalten und welche jetzt in der Schleswig-Holsteinischen Angelegenheit und in

*) Eine identische Note ist von Oesterreich ausgegangen.

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dem Versuche, die Leitung derselben den Regierungen aus der Hand zu winden, einen willkommenen Vorwand und ein wirksames Mittel für ihre Agitation zu finden glauben. So lange letztere nur vereinzelt und ohne anderen als moralischen Zusammenhang auftrat, konnte sie minder gefährlich erscheinen. Es ist aber jetzt der Versuch gemacht worden, ihr einen Mittelpunkt und eine Organisation zu geben, und ihr zugleich materielle Mittel zu Gebote zu stellen, welche ihr eine ganz andere Bedeutung verleihen. Auf dem letzten sogenannten Abgeordnetentage in Frankfurt a. M. hat man sich nicht auf aufreizende Reden und auf die offen ausgesprochene Absicht beschränkt, durch keine gesetzliche Schranke sich binden zu lassen, sondern man hat sich auch, gegen den Widerspruch weniger besonnener Elemente, verleiten lassen, einen permanenten Ausschuss niederzusetzen, welcher sich zum amtlichen Organ des Willens der Deutschen erklärt, und als solches dazu bestimmt ist, einen Mittelpunkt für die Thätigkeit der Vereine zu bilden, diese in fortwährendem Zusammenhange zu erhalten und über die Mittel, welche die Gesammtheit derselben darbietet, einheitlich zu verfügen. Zugleich schreitet die Herstellung von Vereinen, welche mehr oder weniger ausdrücklich politische Zwecke verfolgen, überall fort, und es werden in der Wendung, welche man den Turner- und Wehrvereinen gibt, und in der Bildung von Freischaaren, welche angeblich die an sich sehr ausreichenden militärischen Kräfte des Bundes unterstützen sollen, die Einleitungen getroffen, um organisirte materielle Kräfte in Bereitschaft zu haben, welche in einem günstigen Augenblicke für revolutionäre Zwecke verwendbar sind. Deutschland ist auf diese Weise von einem Netze revolutionärer Elemente durchzogen, welche vorläufig durch den moralischen Druck, den sie auf die Entschliessungen der Regierungen üben, die bestehende gesetzliche Ordnung zu erschüttern streben und die nächste Zukunft mit ernstlichen Gefahren bedrohen, wenn die Regierungen nicht bei Zeiten der weiteren Entwicklung mit Energie entgegentreten. ¶ Wir sind der Ansicht, dass die bestehenden gesetzlichen Vorschriften in den Deutschen Bundesländern den Regierungen hierzu hinreichende und wirksame Mittel an die Hand geben. Die Grundzüge, welche in dem Bundesbeschlusse vom 13. Juli 1854 in Bezug auf die Behandlung und Regelung des Vereinswesens aufgestellt worden sind, reichen dazu aus, wenn sie überall mit Ernst und Energie in Anwendung gebracht werden. Ich erinnere besonders an den § 4 desselben, durch welchen jede Verbindung der Vereine unter einander als unstatthaft erklärt ist. ¶ Der unverkennbare Zweck des in Frankfurt einen permanenten Sitz habenden Ausschusses der Sechsunddreissig steht in directem Widerspruche mit dieser Bestimmung. Nicht minder sind die Vereine, welche die Bildung von bewaffneten Freischaaren bezwecken, unzweifelhaft als solche zu betrachten, welche die öffentliche Ruhe und Sicherheit gefährden und welche nach § 1 derselben Grundzüge in keinem Deutschen Bundeslande geduldet werden sollen. Wir erachten uns selbst und jede Deutsche Bundesregierung für verpflichtet, diese Bestimmungen im gegenwärtigen Augenblicke in Anwendung zu bringen. Die Fortdauer des permanenten Ausschusses am Sitze des Bundestages selbst in der Eigenschaft eines Central-Ausschusses für ganz Deutschland kann aber eben so wenig geduldet werden, wie etwa seine Widerherstellung an einem anderen Orte oder unter einem

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anderen Namen. Die Bildung von Freischaaren werden wir auf unserem Gebiete nicht zugeben und eben so wenig ihnen den Durchgang durch dasselbe gestatten. Es liegt im dringenden Interesse der Deutschen Sache, welche der Bund in Holstein in seine eigene Hand genommen hat, dass dieses Land nicht durch den Einfluss fremder revolutionärer Elemente zum Brennpunkte der Bestrebungen der Umsturz-Partei gemacht werde. Jeder Versuch der Bildung organisirter Streitkräfte unter dem Namen und zur Verfügung einer nicht anerkannten und zur Militärhoheit nicht berechtigten Autorität würde dem Bundesrechte und den Bundeszwecken nicht minder als den völkerrechtlichen Grundsätzen widersprechen, und kann daher auf dem Territorium des Deutschen Bundes nicht zugelassen werden. ¶ Ich habe mich in Vorstehendem über die Grundsätze ausgesprochen, zu deren Befolgung die Königliche Regierung gegenüber der gegenwärtigen Agitation in Deutschland entschlossen ist. Wir hoffen zwar, dass die Deutschen Regierungen in richtiger Würdigung des Ernstes der Lage die nachdrückliche Aufrechthaltung ihrer Autorität durch das eigene Interesse für geboten erachten werden. Jedoch schöpfen wir das Recht, auf diese Nothwendigkeit ausdrücklich aufmerksam zu machen, aus der Thatsache, dass in keinem Theile des Bundesgebietes die öffentliche Ruhe gestört oder bedroht werden kann, ohne dass dadurch die anderen Glieder und die Gesammtheit des Bundes zur Wahrung ihrer eigenen und der gemeinsamen Sicherheit verpflichtet und berechtigt würden. ¶ Ew. etc. ersuche ich, Sich im Sinne dieser Bemerkungen gegen die dortige Regierung zwar nur mündlich und vertraulich, jedoch mit allem Nachdruck auszusprechen, und ich bemerke nur noch, dass vollkommen gleichlautende Instructionen auch Ihrem Oesterreichischen Collegen zugehen.

Berlin, 31. December 1863.

v. Bismarck.

No. 2027.

PREUSSEN. — Min. d. Ausw. an den Königl. Geschäftsträger bei der Stadt Frankfurt [dem ältern Bürgermeister am 11. October mitgetheilt]. — Missbilligung des Verhaltens des Senats gegenüber dem Abgeordnetentage. —

Berlin, 6. October 1865.

No. 2027. Preussen, 6. Oct. 1865.

Ew. Hochwohlgeboren Berichte haben uns einen näheren Einblick in die Verhandlungen des am 1. d. M. dort abgehaltenen Abgeordnetentages gewährt. Wir hatten bis zum letzten Augenblicke gehofft, dass der Senat, im Bewusstsein seiner Verpflichtungen gegen seine Deutschen Verbündeten und eingedenk früherer von uns und Oesterreich gemachten Vorstellungen, diese Versammlung verhindern würde. Leider haben wir uns getäuscht. ¶ Wir haben uns von Neuem überzeugen müssen, dass der Senat nichts dagegen hat, wenn das Territorium der Stadt Frankfurt zum Ausgangspunkt für unverständige, ja gemeinschädliche politische Projecte benutzt wird. ¶ Solche Nachsicht gegen subversive Bestrebungen können wir nicht ferner gestatten. Wir können es nicht dulden, dass

vorzugsweise am Sitz des Bundestages auf die Untergrabung bestehender Autoritäten in den ersten Bundestaaten hingearbeitet wird, dass von dort aus Presserzeugnisse in die Welt geschickt werden, welche sich durch Rohheit vor allen übrigen hervorthun. Der Verlauf des Abgeordnetentags hat gezeigt, dass die Phrase in dem gebildeten Theile der Bevölkerung immer weniger Anklang findet. Aber die Nachsicht des Senats bleibt deshalb nicht minder tadelnswerth. ¶ Wir begegnen uns mit der Kaiserlich Oesterreichischen Regierung in der Auffassung, dass die Wiederholung eines solchen öffentlichen Aergernisses, selbst in der Gestalt resultatloser Velleitäten, nicht gestattet werden darf. Der Kaiserlich Oesterreichische Vertreter hat den Auftrag, dem dortigen Senate in diesem Sinne Vorstellungen zu machen. ¶ Ew. Hochwohlgeboren ersuche ich ergebenst, im Einvernehmen mit Ihrem Oesterreichischen Collegen dem älteren Herrn Bürgermeister darüber keinen Zweifel zu lassen, dass wir uns in dieser Beziehung in vollständigem Einverständnisse mit der Kaiserlichen Regierung befinden. ¶ Ich gebe mich der zuversichtlichen Hoffnung hin, dass man Frankfurter Seits die beiden Deutschen Grossmächte nicht in die Lage bringen wird, durch eigenes Eingreifen weiteren Folgen unzulässiger Nachsicht vorzubeugen. ¶ Ew. Hochwohlgeboren ermächtige ich, den gegenwärtigen Erlass dem älteren Herrn Bürgermeister vorzulesen und, wenn er wünscht, Abschrift davon in seinen Händen zu lassen.

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Der Minister der auswärtigen Angelegenheiten.
Im Auftrage *v. Thile.*

No. 2028.

ÖSTERREICH. — Min. d. Ausw. an den K. K. Geschäftsträger bei der freien Stadt Frankfurt [dem älteren Bürgermeister am 11. Octbr. mitgetheilt]. — Den Abgeordnetentag betr. —

Wien, 8. October 1865.

No. 2028. Oesterreich, 8. Oct. 1865.

Der Verlauf des am 1. d. M. zu Frankfurt abgehaltenen sogenannten Abgeordnetentags hat für jetzt nur die innere Haltlosigkeit dieses neuen Agitationsversuches und die Zerfahrenheit der politischen Parteien in Deutschland blosgelegt. Die eingelaufenen Absagebriefe, wie die unverkennbare Gleichgültigkeit des Publikums dürften selbst den Urhebern dieser bedeutungslosen Demonstration die Verkehrtheit des Unternehmens gezeigt haben, an den Entschlüssen der beiden ersten Mächte Deutschlands ihre anmassliche Kritik zu üben. ¶ Allein wenn auch die gehörten Reden, sowie die Resolutionen der Versammlung in ihrer, gelinde gesagt, unpassenden Motivirung und halbrevolutionären Zuspitzung gerechter Missachtung verfallen sind, so tilgt dieses Fehlschlagen doch nicht den verletzenden Charakter der Thatsache, dass die gegen die Regierungen von Oesterreich und Preussen gerichteten Schmähungen und Beleidigungen, welche die demokratische Presse täglich anfüllen, in Frankfurt unter den Augen des Bundestages und der eigenen Truppen der beiden Mächte auf offener Tribüne wiederholt worden sind. Es darf ferner nicht ausser Acht gelassen werden, dass

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jener 36er Ausschuss, welcher den Abgeordnetentag einberufen hat, auch diesesmal erneuert worden ist, und dass dieser Ausschuss und sein engeres geschäftsleitendes Comité, als ein in Permanenz erklärtes Organ der Deutschen Revolutionspartei, nur auf günstigere Umstände warten, um mit mehr Erfolg von Neuem auf den Schauplatz zu treten. ¶ Die Regierungen Deutschlands werden gewiss sämmtlich mit uns darin einverstanden sein, dass schon die blosse Existenz des Sechsunddreissiger-Ausschusses, ganz abgesehen von den Wirkungen des neuesten masslosen Auftretens der Versammlung in Frankfurt und von dem für Oesterreich und Preussen beleidigenden Charakter ihrer Beschlüsse, eine vollkommen ungesetzliche und unconstitutionelle ist. Insbesondere wird der Senat von Frankfurt in seiner bundesgetreuen Gesinnung sich nicht verhehlen können, dass die Bundesstadt am wenigsten zum Sammelplatz dieser gesetzwidrigen Agitationen hergeliehen werden sollte. ¶ Bereits nach dem am 21. December 1863 abgehaltenen Abgeordnetentage, aus welchem die Einsetzung eines permanenten Ausschusses zur Durchführung des Volkswillens, als Mittelpunkt für die Thätigkeit der Vereine, der Fortschrittspresse etc. hervorging, haben wir es gemeinschaftlich mit Preussen an ernsten Vorstellungen gegen die diesem Treiben am Sitze der Bundesversammlung gewährte Duldung nicht fehlen lassen. Die seitdem in häufiger Aufeinanderfolge dort in Scene gesetzten Kundgebungen beweisen, welche geringe Beachtung die damals von den Vertretern der beiden Höfe dem Herrn älteren Bürgermeister in vertraulicher Weise gemachten Bemerkungen gefunden haben. ¶ In dieser Wahrnehmung sowohl, wie in ihrer Ueberzeugung, dass eine so usurpatorische Wirksamkeit, wie die jenes Ausschusses und des Abgeordnetentages, nicht ohne ernste gemeinsame Gefahr noch länger stillschweigend zugelassen, und dadurch gewissermassen zu gewohnheitsmässigem Bestande erhoben werden dürften, müssen die Cabinette von Wien und Berlin eine unabweisliche Aufforderung erblicken, die ganze Aufmerksamkeit des hohen Senates von Neuem auf die besprochenen Vorgänge und das Verhältniss der Bundesstadt zu denselben zu lenken. Wir glauben der zuversichtlichen Erwartung Raum geben zu können, dass nicht nur so leidenschaftliche Invectiven und ein so ausgesprochener Parteikampf gegen die ersten Bundesmächte, wie er die Tagesordnung der letzten Versammlung bildete, künftig keine Stätte mehr in Frankfurt finden, sondern der Senat überhaupt das Zusammentreten neuer von dem Comité des Sechsunddreissiger-Ausschusses einberufener Versammlungen auf sein Gebiet von nun an nicht mehr gestatten werde. Die Autorität des Senates, an welche wir uns hiermit in erster Linie wenden, wird uns hoffentlich der Nothwendigkeit überheben, auf anderweite Schritte Bedacht zu nehmen, um vom Sitze der Deutschen Bundesversammlung in Zukunft die bisherigen ungesetzlichen Bestrebungen fern zu halten. ¶ Ew. etc. werden ersucht, dem Herrn regierenden Bürgermeister, sobald Ihr Preussischer College zu dem gleichen Schritte ermächtigt sein wird, den gegenwärtigen Erlass vorzulesen, und wenn es gewünscht werden sollte, Abschrift zu vertraulichem Gebrauche in Händen zu lassen. Empfangen etc.

Mensdorff.

No. 2029.

FREIE STADT FRANKFURT. — Der ältere Bürgermeister an den Kön. Preuss. [und gleichlautend an den K. K. Oesterreichischen] Geschäftsträger. — Antwort auf die vorausgehenden beiden Depeschen. —

Frankfurt, 20. October 1865.

No. 2029. Frankfurt, 20. Oct. 1865.

Ew. Hochwohlgeboren haben mir am 11. d. Mts. eine Note in Abschrift mitgetheilt, welche unter dem 6. (8.) d. Mts. von dem K. Preuss. (K. K. Oesterr.) Ministerium der auswärtigen Angelegenheiten an Ew. Hochwohlgeboren gerichtet worden ist und den letzlich hier abgehaltenen sogenannten Abgeordnetentag und Erzeugnisse der Presse zum Gegenstand hat, das Verhalten des Senats der erwähnten und ähnlichen Versammlungen gegenüber bespricht und mit der Hoffnung schliesst, dass man Frankfurter Seits die beiden Deutschen Grossmächte nicht in die Lage bringen wird, durch eigenes Eingreifen weiteren Folgen unzulässiger Nachsicht vorzubeugen. ¶ Ich habe von dieser Mittheilung dem Senate sofort Kenntniss gegeben und bin nunmehr, nachdem amtliche Berichte über die angeregten Fragen vorliegen, zu der nachfolgenden Erklärung ermächtiget worden. ¶ Der Senat muss es als mit den Fundamentalgesetzen des Bundes, sonach mit dem Rechte in Widerspruch stehend betrachten, wenn in dem völkerrechtlichen Verein der Deutschen souveränen Fürsten und Freien Städte, welcher errichtet ist zur Bewahrung der Unabhängigkeit und Unverletzbarkeit ihrer im Bunde begriffenen Staaten und zur Erhaltung der inneren und äusseren Sicherheit Deutschlands, welcher in seinem Inneren besteht als eine Gemeinschaft selbständiger, unter sich unabhängiger Staaten, mit wechselseitigen gleichen Vertragsrechten und Vertragsobliegenheiten, ein Bundesstaat dem andern gegenüber von „nicht dulden“ und „nicht gestatten“ reden und zu der Aeusserung gelangen wollte, „durch eigenes Eingreifen weiteren Folgen unzulässiger Nachsicht vorzubeugen.“ ¶ Der Senat ist sich bewusst, in seinem Verhalten den besprochenen Versammlungen gegenüber die Gesetze der Freien Stadt Frankfurt eben so wenig, als die Gesetze des Bundes verletzt zu haben, und muss die Thatsache hervorheben, dass der 36er-Ausschuss am 16. October 1864 in Weimar, am 26. März 1865 in Berlin und am 3. September 1865 in Leipzig Sitzungen abgehalten, welche nicht beanstandet worden sind. ¶ Ich ergreife diesen Anlass etc.

Dr. *Gwinner.*

No. 2030.

ÖSTERREICH. — Verbalnote des K. K. Geschäftsträgers bei d. Freien Stadt Frankfurt an den älteren Bürgermeister. — Verwahrung gegen die vorausgehende Note. —

Frankfurt, 26. October 1865.

No. 2030. Oesterreich, 26. Oct. 1865.

Erhaltenem Auftrage gemäss beehrt sich der K. K. Oesterreichische Geschäftsträger, Seiner Hochwohlgeboren dem wohlregierenden älteren Herrn Bürgermeister, Senator und Syndikus Dr. Gwinner, mitzutheilen, dass von Seite

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der K. K. Regierung die Note des Senats vom 20. October nicht als eine Antwort auf ihre Depesche vom 8. d. M. angesehen werden kann, da ersteres Actenstück Behauptungen und Ausdrücke der bezogenen Depesche unterschiebt, welche in derselben gar nicht gebraucht worden sind. ¶ Die K. K. Regierung findet, dass es dem Senat frei stand, identische Antworten zu ertheilen, nicht aber ihre Depesche unrichtig zu citiren.

No. 2031.

FREIE STADT FRANKFURT. — Der ältere Bürgermeister an den K. K. Oesterr. Geschäftsträger. — Weitere Erwiderung auf die dem Senate gemachten Vorwürfe wegen seines Verhaltens gegenüber dem Abgeordnetentage. —

Frankfurt, 30. October 1865.

No. 2031. Frankfurt, 30. Oct. 1865.

Der unterzeichnete ältere Bürgermeister der Freien Stadt Frankfurt ist von dem Senate beauftragt worden, auf die gefällige Mittheilung Seiner Hochwohlgeboren des Kaiserlich Königlich interimistischen Geschäftsträgers Herrn Legationssecretär Freiherrn von Frankenstein vom 26. October l. J. die nachfolgende Erklärung mit der ergebensten Bitte folgen zu lassen, dieselbe der Kaiserlich Königlichen Regierung vorlegen zu wollen. ¶ Der Senat hat den Schlusssatz des Erlasses der Kaiserlich Königlichen Regierung vom 8. October 1865, lautend:

> „Euer Hochwohlgeboren werden ersucht, dem Herrn regierenden Bürgermeister, sobald Ihr Preussischer College zu dem gleichen Schritte ermächtigt sein wird, den gegenwärtigen Erlass vorzulesen“

dahin auffassen zu müssen geglaubt, dass die beiden gleichzeitig ihm verkündigten Erlasse, wenn auch in der Form von einander abweichend, doch dem Wesen und der eigentlichen Bedeutung nach als gleiche Schritte betrachtet werden wollten. ¶ Die Verbalnote vom 26. October 1865 giebt ihm die eben so erfreuliche, als beruhigende Gewissheit, dass jene Auffassung eine irrige gewesen ist, und er spricht zunächst hierfür seinen tiefgefühlten Dank aus. ¶ Die Modification, welche das ergebenste Schreiben des Unterzeichneten vom 20. October l. J. hiernach zu erfahren hat, ergiebt sich von selbst. ¶ Der Senat, welcher sich verpflichtet findet, auch bei dem gegenwärtigen Anlasse die der Freien Stadt Frankfurt gleich allen anderen Staaten des Bundes in den Fundamentalgesetzen des Bundes zugesicherte Unabhängigkeit und Unverletzbarkeit zu wahren, ist sich bewusst, sein Verhalten, den in dem erwähnten Erlasse besprochenen Versammlungen gegenüber, genau nach Vorschrift der hiesigen Gesetzgebung bemessen zu haben; er muss darauf aufmerksam machen, dass die Frankfurtische Gesetzgebung über Presse und Vereine den von dem Bunde desfalls erlassenen Vorschriften gefolgt ist, sein Verhalten sonach auch den Gesetzen des Bundes entsprochen hat, und dass, wenn jene Vorschriften mangelhaft sein sollten, was er weder untersucht hat, noch behaupten will, er dafür nicht verantwortlich ge-

macht werden kann; er muss die Thatsache hervorheben, dass der 36er-Ausschuss am 16. October 1864 in Weimar, am 26. März 1865 in Berlin und am 3. September 1865 in Leipzig Sitzungen abgehalten hat, welche damals und seitdem nicht beanstandet worden sind; er verbindet endlich damit die Versicherung, dass er auch ferner, wie bisher, die Regel für sein Verhalten nur in den Vorschriften des Rechtes und der Gesetze wird finden können. ¶ Der Unterzeichnete erlaubt sich übrigens mit derjenigen Offenheit, zu welcher der Senat gegen die Kaiserlich Königliche Regierung stets sich verpflichtet fühlt, das Nachfolgende anzufügen. ¶ Der Senat kann sich der Wahrnehmung nicht verschliessen, dass im gesammten Deutschland das Bedürfniss nach Veränderung in der politischen Organisation sich mehr und mehr fühlbar macht. ¶ Ueber die Form der Veränderung haben die Ansichten bis jetzt aber eben so wenig sich geklärt, als über die rechten und gerechten Mittel, um zum Ziele zu gelangen. ¶ Das Ringen nach diesem Ziele findet seinen Ausdruck in Vereinen, Versammlungen und in der Presse. ¶ Alle leiden aber unter dem Mangel an Klarheit, welcher über der ganzen Frage liegt, und daher erwachsen die Verirrungen, welche zu Zeiten in allen jenen Erscheinungen zu Tage treten. ¶ Solche Verirrungen werden aufhören, sobald es den Regierungen gelingt, die Form für die Veränderungen zu finden, deren Nothwendigkeit allseits anerkannt ist. ¶ Inzwischen werden solche Verirrungen dem Gesetze verfallen müssen, soweit sie mit demselben im Widerspruche stehen. Ein gewaltsames Einschreiten dürfte, mit Rücksicht auf das anerkannte Bedürfniss, aus welchem die Bewegung hervorgegangen ist und weil ihm darum jede Befriedigung fehlt, dauernd Ruhe zu verschaffen nicht geeignet sein. ¶ Der Unterzeichnete ergreift mit Vergnügen diesen Anlass, etc.

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Dr. *Gwinner*.

No. 2032.

SACHSEN. — Min. d. Ausw. an die Königl. Gesandtschaften in Wien und Berlin. — Den Schritt Oesterreichs und Preussens beim Senat d. Freien Stadt Frankfurt und die Sächsische Presse betr. —

Dresden, 11. October 1865.

Bei Gelegenheit meines heutigen Empfangstages für das diplomatische Corps machten mir die Herren Gesandten von Oesterreich und Preussen von einem Schritte Mittheilung, welchen ihre höchsten Regierungen bei dem Senate der Stadt Frankfurt gethan haben. Es sind nämlich übereinstimmende Depeschen an die betreffenden Residenten bei der Freien Stadt Frankfurt ergangen, worin über Ausschreitungen des jüngsten Abgeordnetentages, mit Hinweisung auf die schon früher bewiesene Connivenz des Senats, Beschwerde geführt und darauf gedrungen wird, dass Wiederholungen, insbesondere einer weitern Vereinigung des Sechsunddreissiger-Ausschusses, vorgebeugt werde mit der Androhung selbständigen Einschreitens der beiden Mächte im entgegengesetzten Falle. ¶ Ich habe mich nicht bewogen gefühlt, auf eine nähere Besprechung dieses Erlasses einzugehen. Soweit es sich um die auf die Vergangenheit be-

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zügliche Beschwerde handelt, so ist es Sache des Frankfurter Senats, darüber mit den reclamirenden hohen Regierungen Vernehmen zu pflegen. Was aber das in Aussicht gestellte selbständige Einschreiten betrifft, so handelt es sich um eine Eventualität, die noch nicht vorliegt. ¶ Wir müssen indess wünschen, dass unserm Schweigen nicht eine Bedeutung der Zustimmung beigelegt werde, uns vielmehr eintretendenfalls die Freiheit der Ansichten und Erklärungen um so mehr vorbehalten, als hierbei die in den Bundesgrundgesetzen enthaltenen Bestimmungen über Selbsthülfe bei Streitigkeiten unter Bundesgliedern nicht ausser Beachtung bleiben könnten. ¶ Dass in beiden Erlassen die Unzuträglichkeit von agitatorischen Versammlungen ohne verfassungsmässiges Mandat am Sitze der Bundesversammlung hervorgehoben wird, ist eine Betrachtung, der wir die Berechtigung keineswegs abzusprechen gemeint sind, wenn uns auch dieselbe insofern überraschen musste, als im Verlaufe der letzten sechs Jahre ähnliche Versammlungen wiederholt in Frankfurt zusammengetreten sind, ohne den hohen Regierungen von Oesterreich und Preussen zu gleichem Einspruch Anlass zu geben. Um so mehr aber dürfte auch die fernere Betrachtung Anspruch auf Beachtung haben, dass, insoweit Frankfurt als Sitz der Bundesversammlung vielleicht einer ausnahmsweisen Beurtheilung unterworfen ist, es offenbar Sache der Bundesversammlung sein muss, zu entscheiden, welche Massnahmen gegenüber der Territorialregierung geboten und zulässig sein möchten, oder nicht. ¶ Auch die gleichzeitig in den beiden Erlassen hervorgehobene, gewiss sehr beachtenswerthe Rücksichtnahme auf die Anwesenheit der Oesterreichisch-Preussischen Besatzung würde von dieser Instanz zu würdigen sein, da erstere nicht auf einem Vertrags- oder sonstigen Verhältnisse zwischen Oesterreich, Preussen und der Stadt Frankfurt beruht, sondern im engen Zusammenhange eben mit dem Sitze der Bundesversammlung in dieser Stadt steht. ¶ Ew. etc. wollen vorstehenden Erlass durch Vorlesen zur Kenntniss des Herrn Ministers des Auswärtigen oder dessen Stellvertreters bringen.

Beust.

Nachschrift. Im Anschluss an die in meiner heutigen Depesche erwähnte Mittheilung brachten beide Herren Gesandten die Sächsische Presse zur Sprache, indem sie Auftrag erhalten hatten, sich darüber, mit namentlicher Bezugnahme auf einen unterm 9. September d. J. erschienenen Artikel der hiesigen „Constitutionellen Zeitung", beschwerend zu äussern. Wenn es mir der Form wegen nur angenehm sein konnte, dass dies mehr in einer zurückhaltenden Weise geschah, so bin ich freilich über die eigentliche Tragweite jenes Schrittes einigermassen im Ungewissen geblieben. Die von mir gestellte Frage, ob ein Antrag auf Verfolgung des gedachten Artikels gestellt werde, haben beide Herren Gesandten verneint. Sollte dies dennoch die Meinung sein, so würde die Königliche Regierung dem Antrag Folge zu geben nicht Anstand nehmen. Ich kann dabei nicht unbemerkt lassen, dass in Sachsen in Pressangelegenheiten streng nach dem Gesetz verfahren wird, diesem zufolge aber der Antrag der Staatsanwaltschaft zu überweisen und, sofern diese einen Strafantrag für zulässig erachtet, ein gerichtliches Verfahren einzuleiten sein würde. Die Königliche Regierung

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hat ihrerseits die stellenweise sehr ungemessene Sprache jenes Artikels zu beklagen. Wohin die Entscheidung des Gerichts ausfallen würde, darüber vermag sie im Voraus kein Urtheil abzugeben. Dass gegen die Verfolgung eines schon vor länger als Monatsfrist erschienenen Artikels manche Gründe sprechen können, dass ferner der Artikel unter dem ersten Eindruck der Gasteiner Convention geschrieben worden ist, welche eine sehr lebhafte Erregung der Gemüther in ganz Deutschland hervorrief, sind Momente, welche die antragstellenden Regierungen wohl nicht ganz ausser Betrachtung zu lassen gemeint sein würden. ¶ Sollte dagegen, wie es den Anschein hatte, die Absicht dahin gehen, nur gelegentlich jenes Artikels die Haltung der Sächsischen Presse im Allgemeinen zum Gegenstande der Beschwerde zu machen, so wäre freilich der Königlichen Regierung, wie ich es beiden Herren Gesandten gegenüber zu thun nicht unterlassen habe, Anlass zu sehr nahe liegender Entgegnung gegeben. Die Deutsche Presse bietet leider in diesem Augenblick das traurigste Bild der Deutschen Zerrissenheit dar. egenseitig überhäuft man sich mit Klagen und Vorwürfen, ja mit Schmähungen und Verlästerungen. Es mag sich der Mühe verlohnen zu erwähnen, ob es Mittel und welche geben könne, diesem bedauerlichen Zustande ohne Gefährdung der Pressfreiheit eine bessere Gestalt zu geben. Aber unbillig und ungerecht müssten wir es nennen, wollte man eine vereinzelte Erscheinung aus dem Getriebe des Ganzen herausgreifen und darauf Beschwerden und Anklagen begründen. Dass die Sächsische Presse sich vor andern Deutschen Ländern in der Masslosigkeit ihrer Sprache hervorthue, wäre eine Behauptung, die des Beweises bedürfte und schwerlich erwiesen würde. Es kommt aber bei jenen gegenseitigen Anfeindungen weniger auf die Wahl der Ausdrücke, als auf die Bedeutung der Ausfälle an. Wie ich es dem Herrn Gesandten von Oesterreich bemerklich zu machen mir erlaubte, erscheinen in Oesterreichischen Blättern Artikel gegen die Regierungen der Deutschen Mittelstaaten, welche diese nicht minder tief verwunden. Es ist jedenfalls für das Ansehen derselben mindestens etwas ebenso Verletzendes, wenn fortwährend von ihrer Ohnmacht, als es die Kaiserliche Regierung unangenehm berühren mag, wenn in mittelstaatlichen Blättern von Gewaltthätigkeiten der Grossmächte gesprochen wird. ¶ Noch bei Weitem mehr Anlass war mir zu dieser Erwiderung dem K. Preuss. Herrn Gesandten gegenüber geboten. Mit welchem Aufwand von Gehässigkeit und selbst Verleumdung werden in Preussischen Blättern die Regierungen der Mittelstaaten, namentlich die Sächsische Regierung tagtäglich verfolgt! In den Preussischen Jahrbüchern führt in regelmässiger Folge ein bekannter Schriftsteller aus, dass die Deutschen Staaten nicht etwa nur Preussen sich unterordnen, nein, dass die Deutschen Staaten und Dynastien zu existiren aufhören sollen. Dieses Thema findet in Preussischen Tageblättern vielfaches Echo, ja jene Aufsätze finden in der für ministerielles Organ geltenden „Norddeutschen Allgemeinen Zeitung“ Erwähnung, und noch nie habe ich vernommen, dass Seiten der Königlich Preussischen Regierung etwas geschehen sei, diesem Beginnen Einhalt zu thun. Dem von Herrn v. d. Schulenburg gegen mich ausgesprochenen Wunsch, dass auf Milderung der Pressanfeindungen hingewirkt werde, pflichte ich gern bei, aber ich habe, bevor ich dem der Sächsischen Regierung gemachten Vorwurf, Preus-

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sen feindlichen Tendenzen nicht entgegenzutreten, Rede stehe, zu erwarten, dass in Preussen den Sachsenvernichtenden Tendenzen gesteuert werde. Ew. etc. wollen auch von diesem Erlass durch Vorlesen Kenntniss geben.

Beust.

No. 033.

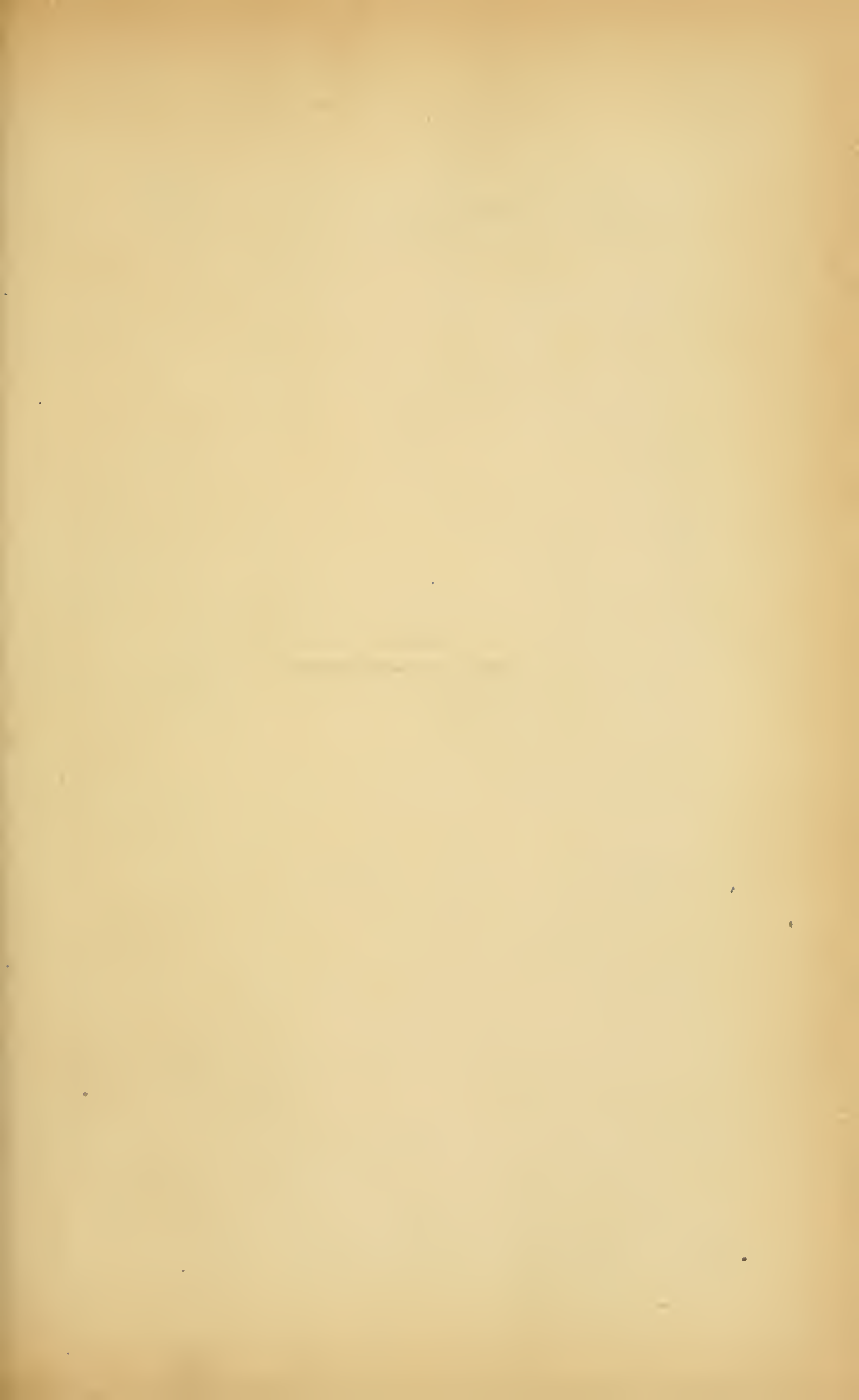
MECKLENBURG-SCHWERIN. — Min. d. Ausw. an den Kön. Preuss. Gesandten. — Uebereinstimmung mit den Ansichten der Preuss. Regierung über den Abgeordnetentag etc. —

Schwerin, 17. October 1865.

No. 2033. Mecklenb.-Schwerin, 17. Oct. 1865.

Der Unterzeichnete hat die vertrauliche Mittheilung des . . . . vom 12. d. M., betreffend das Vorgehen von Oesterreich und Preussen gegen den Senat von Frankfurt a. M. wegen Duldung des sog. Abgeordnetentages, zu empfangen die Ehre gehabt. ¶ Die Grossh. Regierung, indem sie für diese Mittheilung verbindlichst dankt, begrüsst den Inhalt derselben in sofern mit lebhafter Genugthuung, als sie darin eine Bekräftigung der von ihr stets gehegten und oft geäusserten, auch innerhalb des eigenen Landes mit Erfolg gehandhabten Ueberzeugung findet, dass es von Seiten der Deutschen Regierungen den dreisten Bestrebungen der Umsturzpartei gegenüber des kräftigsten Einschreitens bedarf, um die stets wachsenden Gefahren für die innere Sicherheit Deutschlands abzuwenden. ¶ Es mag hier dahingestellt bleiben, ob der bundesgesetzliche Zustand schon an sich ein ungenügender ist, besonders in sofern, als die vom Deutschen Bunde beschlossene Vereins- und Pressgesetzgebung den einzelnen Landesgesetzgebungen zu viel überlassen und dadurch ihre Wirksamkeit, die nur durch völlige Uebereinstimmung in allen Bundesländern zu erreichen ist, gelähmt hat, oder ob einzelne Regierungen es an der schuldigen Ausführung der Bundesbeschlüsse haben fehlen lassen. Die Grossh. Regierung wird in dem einen, wie in dem andern Falle allen geeigneten Schritten zustimmen, um dem Treiben der revolutionären Parteien, wenn sie auch bisher resultatlos gewesen sind, mit Nachdruck entgegenzutreten. Je mehr nun die Gefahr, womit der Frankfurter Abgeordnetentag zunächst die beiden grössten Bundesstaaten bedroht hat, ohne Zweifel eine allen Deutschen Staaten gemeinsame ist, um so weniger glaubt die Grossh. Regierung mit der Anerkennung zurückhalten zu dürfen, dass der Deutsche Bund als solcher die von Oesterreich und Preussen für ihn ergriffene energische Initiative dankbar und einmüthig auf jede Weise unterstützen sollte, in der zuversichtlichen Hoffnung, dass dann ohne Schwierigkeit das gemeinsame Vorgehen in die rechtmässige, den Bundesgrundgesetzen entsprechende Form, die kein einzelner Deutscher Staat als solcher einem gleichberechtigten andern Deutschen Staate gegenüber wird verletzen wollen, zu leiten sein wird. ¶ Mit Vergnügen etc.

v. Oertzen.



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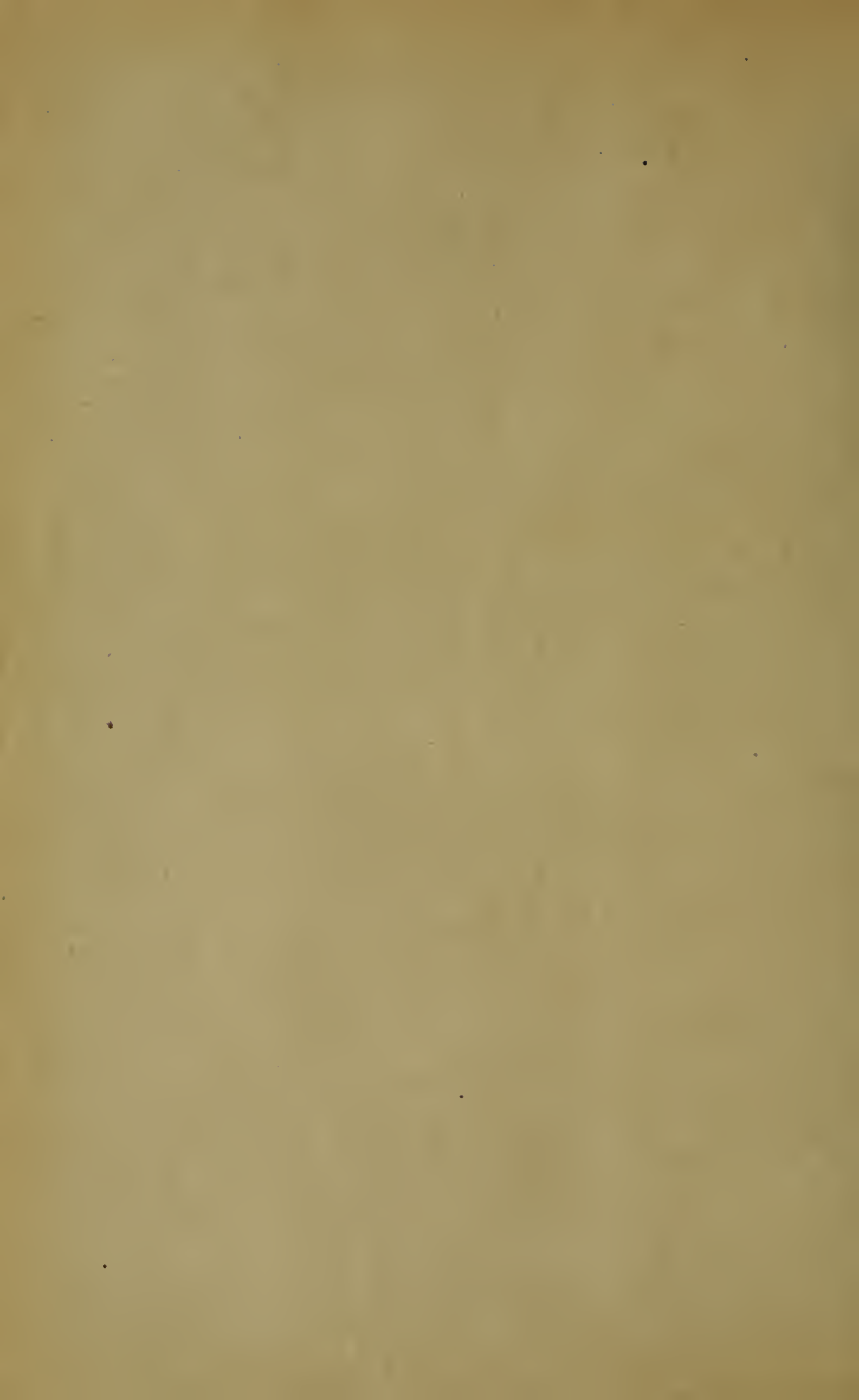
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Inhalt des Januar-Heftes 1866.

No. 2034.

VEREINIGTE STAATEN von **AMERIKA**. — Botschaft des Präsidenten bei Eröffnung des Congresses am 4. December 1865. —

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Fellow-Citizens of the Senate and House of Representatives. — To express gratitude to God, in the name of the people, for the preservation of the United States, is my first duty in addressing you. Our thoughts next revert to the death of the late President by an act of parricidal treason. The grief of the nation is still fresh; it finds some solace in the consideration that he lived to enjoy the highest proof of its confidence by entering on the renewed term of the Chief Magistracy to which he had been elected, that he brought the civil war substantially to a close, that his loss was deplored in all parts of the Union, and that foreign nations have rendered justice to his memory. His removal cast upon me a heavier weight of cares than ever devolved upon any one of his predecessors. To fulfil my trust I need the support and confidence of all who are associated with me in the various departments of Government, and the support and confidence of the people. There is but one way in which I can hope to gain their necessary aid; it is to state with frankness the principles which guide my conduct, and their application to the present state of affairs, well aware that the efficiency of my labours will, in a great measure, depend on your and their undivided approbation. ¶ The union of the United States of America was intended by its authors to last as long as the States themselves shall last. "The Union shall be perpetual" are the words of the Confederation. "To form a more perfect union", by an ordinance of the people of the United States, is the declared purpose of the Constitution. The hand of Divine Providence was never more plainly visible in the affairs of men than in the framing and the adopting of that instrument. It is, beyond comparison, the greatest event in American history; and, indeed, is it not, of all events in modern times, the most pregnant with consequences for every people of the earth? The members of the Convention which prepared it brought to their work the experience of the Confederation, of their several States, and of other Republican Governments, old and new; but they needed and they obtained a wisdom superior to experience. And when, for its validity, it required the approval of a people that occupied a large part of a continent, and acted separately in many distinct Conventions, what is more wonderful than that, after earnest contention and long discussion, all feelings and all opinions were ultimately drawn in one way to its support? ¶ The Constitution to which life was thus imparted contains within itself ample resources for its own preservation. It has power to enforce the laws, punish treason, and ensure

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domestic tranquillity. In case of the usurpation of the Government of a State by one man, or an oligarchy, it becomes a duty of the United States to make good the guarantee to that State of a Republican form of Government, and so to maintain the homogeneousness of all. Does the lapse of time reveal defects? A simple mode of amendment is provided in the Constitution itself, so that its conditions can always be made to conform to the requirements of advancing civilization. No room is allowed even for the thought of a possibility of its coming to an end. And these powers of self-preservation have always been asserted in their complete integrity by every patriotic chief magistrate — by Jefferson and Jackson, not less than by Washington and Madison. The parting advice of the Father of his Country, while yet President, to the people of the United States, was, "that the free Constitution, which was the work of their hands, might be sacredly maintained;" and the inaugural words of President Jefferson held up "the preservation of the General Government, in its constitutional vigour, as the sheet anchor of our peace at home and safety abroad." The Constitution is the work of "the people of the United States," and it should be as indestructible as the people. ¶ It is not strange that the framers of the Constitution, which had no model in the past, should not have fully comprehended the excellence of their own work. Fresh from a struggle against arbitrary power, many patriots suffered from harassing fears of an absorption of the State Governments by the General Government, and many from a dread that the States would break away from their orbits. But the very greatness of our country should allay the apprehension of encroachments by the General Government. The subjects that come unquestionably within its jurisdiction are so numerous that it must ever naturally refuse to be embarrassed by questions that lie beyond it. Were it otherwise, the Executive would sink beneath the burden, the channels of justice would be choked, legislation would be obstructed by excess; so that there is a greater temptation to exercise some of the functions of the General Government through the States than to trespass on their rightful sphere. "The absolute acquiescence in the decisions of the majority" was, at the beginning of the century, enforced by Jefferson "as the vital principle of republics," and the events of the last four years have established, we will hope for ever, that there lies no appeal to force. ¶ The maintenance of the Union brings with it "the support of the State Governments in all their rights," but it is not one of the rights of any State Government to renounce its own place in the Union, or to nullify the laws of the Union. The largest liberty is to be maintained in the discussion of the acts of the Federal Government, but there is no appeal from its laws, except to the various branches of that Government itself, or to the people, who grant to the members of the Legislative and of the Executive Departments no tenure but a limited one, and in that manner always retain the powers of redress. ¶ "The sovereignty of the States" is the language of the Confederacy, and not the language of the Constitution. The latter contains the emphatic words, "The Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be

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bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." ¶ Certainly the Government of the United States is a limited government, and so is every State Government. With us, this idea of limitation spreads through every form of administration, general, State, and municipal, and rests on the great distinguishing principle of the recognition of the rights of man. The ancient republics absorbed the individual in the State, prescribed his religion, and controlled his activity. The American system rests on the assertion of the equal right of every man to life, liberty, and the pursuit of happiness; to freedom of conscience, to the culture and exercise of all his faculties. As a consequence, the State Government is limited, as to the General Government in the interest of Union, as to the individual citizen in the interest of freedom. ¶ States, with proper limitations of power, are essential to the existence of the Constitution of the United States. At the very commencement, when we assumed a place among the Powers of the earth, the Declaration of Independence was adopted by States; so also were the Articles of Confederation; and when „the People of the United States" ordained and established the Constitution, it was the assent of the States, one by one, which gave it vitality. In the event too, of any amendment to the Constitution, the proposition of Congress needs the confirmation of States. Without States one great branch of the Legislative Government would be wanting. And, if we look beyond the letter of the Constitution to the character of our country, its capacity for comprehending within its jurisdiction a vast continental empire is due to the system of States. The best security for the perpetual existence of the States is the "supreme authority" of the Constitution of the United States. The perpetuity of the Constitution brings with it the perpetuity of the States; their mutual relation makes us what we are, and in our political system their connexion is indissoluble. The whole cannot exist without the parts, nor the parts without the whole. So long as the Constitution of the United States endures the States will endure; the destruction of the one is the destruction of the other; the preservation of the one is the preservation of the other. ¶ I have thus explained my views of the mutual relations of the Constitution and the States, because they unfold the principles on which I have sought to solve the momentous questions and overcome the appalling difficulties that met me at the very commencement of my administration. It has been my steadfast object to escape from the sway of momentary passions, and to derive a healing policy from the fundamental and unchanging principles of the Constitution. ¶ I found the States suffering from the effects of a civil war. Resistance to the general Government appeared to have exhausted itself. The United States had recovered possession of their forts and arsenals, and their armies were in the occupation of every State which had attempted to secede. Whether the territory within the limits of those States should be held as conquered territory, under military authority emanating from the President as the head of the army, was the first question that presented itself for decision. ¶ Now, military governments, established for an indefinite period, would have offered no security for the early suppression of discontent; would have divided the people into the vanquishers and the vanquished; and would have envenomed hatred, rather than have restored

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affection. Once established, no precise limit to their continuance was conceivable. They would have occasioned an incalculable and exhausting expense. Peaceful emigration to and from that portion of the country is one of the best means that can be thought of for the restoration of harmony; and that emigration would have been prevented, for what emigrant from abroad, what industrious citizen at home, would place himself willingly under military rule? The chief persons who would have followed in the train of the army would have been dependents on the General Government, or men who expected profit from the miseries of their erring fellow-citizens. The powers of patronage and rule which would have been exercised, under the President, over a vast and populous and naturally wealthy region, are greater than, unless under extreme necessity, I should be willing to entrust to any one man; they are such as, for myself, I could never, unless on occasions of great emergency, consent to exercise. The wilful use of such powers, if continued through a period of years, would have endangered the purity of the general administration and the liberties of the States which remained loyal. ¶ Besides, the policy of military rule over a conquered territory would have implied that the States whose inhabitants may have taken part in the rebellion had, by the act of those inhabitants, ceased to exist. But the true theory is, that all pretended acts of secession were, from the beginning, null and void. The States cannot commit treason, nor screen the individual citizens who may have committed treason, any more than they can make valid treaties or engage in lawful commerce with any foreign Power. The States attempting to secede placed themselves in a condition where their vitality was impaired, but not extinguished—their functions suspended, but not destroyed. ¶ But if any State neglects or refuses to perform its offices, there is the more need that the General Government should maintain all its authority, and as soon as practicable resume the exercise of all its functions. On this principle I have acted, and have gradually and quietly, and by almost imperceptible steps, sought to restore the rightful energy of the General Government and of the States. To that end, Provisional Governors have been appointed for the States, Conventions called, Governors elected, Legislatures assembled, and Senators and Representatives chosen to the Congress of the United States. At the same time, the Courts of the United States, as far as could be done, have been re-opened, so that the laws of the United States may be enforced through their agency. The blockade has been removed and the Custom-houses re-established in ports of entry, so that the revenue of the United States may be collected. The Post-office Department renews its ceaseless activity, and the General Government is thereby enabled to communicate promptly with its officers and agents. The Courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the Post-office renews the facilities of social intercourse and of business; and is it not happy for us all that the restoration of each one of these functions of the General Government brings with it a blessing to the States over which they are extended? Is it not a sure promise of harmony and renewed attachment to the Union that, after all that has happened, the return of the General Government is known only as a beneficence? ¶ I know very well

that this policy is attended with some risk; that for its success it requires at least the acquiescence of the States which it concerns; that it implies an invitation to those States, by renewing their allegiance to the United States, to resume their functions as States of the Union. But it is a risk that must be taken; in the choice of difficulties it is the smallest risk; and to diminish, and, if possible, to remove all danger, I have felt it incumbent on me to assert one other power of the General Government—the power of pardon. As no State can throw a defence over the crime of treason, the power of pardon is exclusively vested in the Executive Government of the United States. In exercising that power I have taken every precaution to connect it with the clearest recognition of the binding force of the laws of the United States, and an unqualified acknowledgment of the great social change of condition in regard to slavery which has grown out of the war. ¶ The next step which I have taken to restore the constitutional relations of the States has been an invitation to them to participate in the high office of amending the Constitution. Every patriot must wish for a general amnesty at the earliest epoch consistent with public safety. For this great end there is need of a concurrence of all opinions, and the spirit of mutual conciliation. All parties in the late terrible conflict must work together in harmony. It is not too much to ask, in the name of the whole people, that, on the one side, the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion; and that, on the other the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution, which provides for the abolition of slavery for ever within the limits of our country. So long as the adoption of this amendment is delayed, so long will doubt, and jealousy, and uncertainty prevail. This is the measure which will efface the sad memory of the past; this is the measure which will most certainly call population, and capital, and security to those parts of the Union that need them most. Indeed, it is not too much to ask of the States which are now resuming their places in the family of the Union to give this pledge of perpetual loyalty and peace. Until it is done, the past, however much we may desire it, will not be forgotten. The adoption of the amendment reunites us beyond all power of disruption. It heals the wound that is still imperfectly closed; it removes slavery, the element which has so long perplexed and divided the country; it makes of us once more a united people, renewed and strengthened, bound more than ever to mutual affection and support. ¶ The amendment of the Constitution being adopted, it would remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the National Legislature, and thereby complete the work of restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members. ¶ The full assertion of the powers of the General Government requires the holding of Circuit Courts of the United States within the districts where their authority has been interrupted. In the present posture of our public affairs, strong objections have been urged to holding those courts in any of the

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States where the rebellion has existed; and it was ascertained by inquiry that the Circuit Court of the United States would not be held within the district of Virginia during the autumn or early winter, nor until Congress should have "an opportunity to consider and act on the whole subject." To your deliberations the restoration of this branch of the civil authority of the United States is therefore necessarily referred, with the hope that early provision will be made for the resumption of all its functions. It is manifest that treason, most flagrant in character, has been committed. Persons who are charged with its commission should have fair and impartial trials in the highest civil tribunals of the country, in order that the Constitution and the laws may be fully vindicated; the truth clearly established and affirmed that treason is a crime, that traitors should be punished, and the offence made infamous; and, at the same time, that the question may be judicially settled, finally and for ever, that no State of its own will has the right to renounce its place in the Union. ¶ The relations of the General Government toward the four millions of inhabitants whom the war has called into freedom, have engaged my most serious consideration. On the propriety of attempting to make the freedmen electors by the proclamation of the Executive, I took for my counsel the Constitution itself, the interpretations of that instrument by its authors and their contemporaries, and recent legislation by Congress. When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise. During the period of the Confederacy there continued to exist a very great diversity in the qualifications of electors in the several States; and even within a State a distinction of qualifications prevailed with regard to the officers who were to be chosen. The Constitution of the United States recognizes these diversities when it enjoins that in the choice of members of the House of Representatives of the United States, "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." ¶ After the formation of the Constitution, it remained, as before, the uniform usage for each State to enlarge the body of its electors, according to its own judgment; and, under this system, one State after another has proceeded to increase the number of its electors, until now universal suffrage, or something very near it, is the general rule. So fixed was this reservation of power in the habits of the people, and so unquestioned has been the interpretation of the Constitution, that during the Civil War the late President never harboured the purpose—certainly never avowed the purpose—of disregarding it; and in the acts of Congress, during that period, nothing can be found which, during the continuance of hostilities, much less after their close, would have sanctioned any departure by the Executive from a policy which has so uniformly obtained. Moreover, a concession of the elective franchise to the freedmen, by act of the President of the United States, must have been extended to all coloured men, wherever found, and so must have established a change of suffrage in the Northern, Middle and Western States, not less than in the Southern and South-western. Such an act would have created a new class of voters, and

would have been an assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted. ¶ On the other hand, every danger of conflict is avoided when the settlement of the question is referred to the several States. They can, each for itself, decide on the measure, and whether it is to be adopted at once and absolutely, or introduced gradually and with conditions. In my judgment the freedmen, if they show patience and manly virtues, will sooner obtain a participation in the elective franchise through the States than through the General Government, even if it had power to intervene. When the tumult of emotions that have been raised by the suddenness of the social change shall have subsided, it may prove that they will receive the kindliest usage from some of those on whom they have heretofore most closely depended. ¶ But while I have no doubt that now, after the close of the war, it is not competent for the General Government to extend the elective franchise in the several States, it is equally clear that good faith requires the security of the freedmen in their liberty and their property, their right to labour, and their right to claim the just return of their labour. I cannot too strongly urge a dispassionate treatment of this subject, which should be carefully kept aloof from all party strife. We must avoid hasty assumptions of any natural impossibility for the two races to live side by side, in a state of mutual benefit and good will. The experiment involves us in no inconsistency; let us, then, go on and make that experiment in good faith, and not be too easily disheartened. The country is in need of labour, and the freedmen are in need of employment, culture, and protection. While their right of voluntary migration and expatriation is not to be questioned, I would not advise their forced removal and colonization. Let us rather encourage them to honourable and useful industry, where it may be beneficial to themselves and to the country; and, instead of hasty anticipations of the certainty of failure, let there be nothing wanting to the fair trial of the experiment. The change in their condition is the substitution of labour by contract for the status of slavery. The freedman cannot fairly be accused of unwillingness to work, so long as a doubt remains about his freedom of choice in his pursuits, and the certainty of his recovering his stipulated wages. In this the interests of the employer and the employed coincide. The employed desires in his workmen spirit and alacrity, and these can be permanently secured in no other way. And if the one ought to be able to enforce the contract, so ought the other. The public interest will be best promoted if the several States will provide adequate protection and remedies for the freedmen. Until this is in some way accomplished, there is no chance for the advantageous use of their labour; and the blame of ill-success will not rest on them. ¶ I know that sincere philanthropy is earnest for the immediate realization of its remotest aims; but time is always an element in reform. It is one of the greatest acts on record to have brought four millions of people into freedom. The career of free industry must be fairly opened to them; and then their future prosperity and condition must, after all, rest mainly on themselves. If they fail, and so perish away, let us be careful that the failure shall not be attributable to any denial of justice. In all that relates to the destiny of the freedmen we need not be too anxious to read

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the future; many incidents which, from a speculative point of view, might raise alarm, will quietly settle themselves. ¶ Now that slavery is at an end or near its end the greatness of its evil, in the point of view of public economy, becomes more and more apparent. Slavery was essentially a monopoly of labour, and as such locked the States where it prevailed against the incoming of free industry. Where labour was the property of the capitalist, the white man was excluded from employment, or had but the second best chance of finding it; and the foreign emigrant turned away from the region where his condition would be so precarious. With the destruction of the monopoly, free labour will hasten from all parts of the civilized world to assist in developing various and immeasurable resources which have hitherto lain dormant. The eight or nine States nearest the Gulf of Mexico have a soil of exubirant fertility, a climate friendly to long life, and can sustain a denser population than is found as yet in any part of our country. And the future influx to them will be mainly from the North, or from the most cultivated nations in Europe. From the sufferings that have attended them during our late struggle, let us look away to the future, which is sure to be laden for them with greater prosperity than has ever before been known. The removal of the monopoly of slave labour is a pledge that those regions will be peopled by a numerous and enterprising population, which will vie with any in the Union in compactness, inventive genius, wealth, and industry. ¶ Our Government springs from and was made for the people—not the people for the Government. To them it owes allegiance; from them it must derive its courage, strength, and wisdom. But, while the Government is thus bound to defer to the people, from whom it derives its existence, it should, from the very consideration of its origin, be strong in its power of resistance to the establishment of inequalities. Monopolies, perpetuities, and class legislation are contrary to the genius of free government, and ought not to be allowed. Here, there is no room for favoured classes or monopolies; the principle of our Government is that of equal laws and freedom of industry. Wherever monopoly attains a foothold, it is sure to be a source of danger, discord, and trouble. We shall but fulfil our duties as legislators by according "equal and exact justice to all men," special privileges to none. The Government is subordinate to the people; but, as the agent and representative of the people, it must be held superior to monopolies, which, in themselves, ought never to be granted, and which, where they exist, must be subordinate and yield to the Government. ¶ The Constitution confers on Congress the right to regulate commerce among the several States. It is of the first necessity, for the maintenance of the Union, that that commerce should be free and unobstructed. No State can be justified in any device to tax the transit of travel and commerce between States. The position of many States is such that, if they were allowed to take advantage of it for purposes of local revenue, the commerce between States might be injuriously burdened, or even virtually prohibited. It is best, while the country is still young, and while the tendency to dangerous monopolies of this kind is still feeble, to use the power of Congress so as to prevent any selfish impediment to the free circulation of men and merchandise. A tax on travel and merchandise in their transit constitutes

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one of the worst forms of monopoly, and the evil is increased if coupled with a denial of the choice of route. When the vast extent of our country is considered, it is plain that every obstacle to the free circulation of commerce between the States ought to be sternly guarded against by appropriate legislation within the limits of the Constitution. ¶ The report of the Secretary of the Interior explains the condition of the public lands, the transactions of the Patent Office and the Pension Bureau, the management of our Indian affairs, the progress made in the construction of the Pacific Railroad, and furnishes information in reference to matters of local interest in the district of Columbia. It also presents evidence of successful operation of the Homestead Act, under the provisions of which 1,160,533 acres of the public lands were entered during the last fiscal year— more than one-fourth of the whole number of acres sold or otherwise disposed of during that period. It is estimated that the receipts derived from this source are sufficient to cover the expenses incident to the survey and disposal of the lands entered under this Act, and that payments in cash to the extent of from 40 to 50 per cent. will be made by settlers, who may thus at any time acquire title before the expiration of the period at which it would otherwise vest. The homestead policy was established only after long and earnest resistance; experience proves its wisdom. The lands, in the hands of industrious settlers, whose labour creates wealth and contributes to the public resources, are worth more to the United States than if they had been reserved as a solitude for future purchasers. ¶ The lamentable events of the last four years, and the sacrifices made by the gallant men of our army and navy, have swelled the records of the Pension Bureau to an unprecedented extent. On the 30th day of June last the total number of pensioners was 85,986, requiring for their annual pay, exclusive of expenses, the sum of doll. 8,023,445. The number of applications that have been allowed since that date will require a large increase of this amount for the next fiscal year. The means for the payment of the stipends due under existing laws to our disabled soldiers and sailors, and to the families of such as have perished in the service of the country, will no doubt be cheerfully and promptly granted. A grateful people will not hesitate to sanction any measures having for their object the relief of soldiers mutilated and families made fatherless in the efforts to preserve our national existence. ¶ The report of the Postmaster-General presents an encouraging exhibit of the operations of the Post-office Department during the year. The revenues of the past year from the loyal States alone exceeded the maximum annual receipts from all the States previous to the rebellion in the sum of doll. 6,038,091, and the annual average increase of revenue during the last four years, compared with the revenues of the four years immediately preceding the rebellion, was doll. 3,533,845. The revenues of the last fiscal year amounted to doll. 14,588,158, and the expenditures to doll. 13,694,728, leaving a surplus of receipts over expenditures of doll. 861,430. Progress has been made in restoring the postal service in the Southern States. The views presented by the Postmaster-General against the policy of granting subsidies to ocean mail steamship lines upon established routes, and in favour of continuing the present system, which limits the compensation for ocean service

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to the postage earnings, are recommended to the careful consideration of the Congress. ¶ It appears from the report of the Secretary of the Navy, that while, at the commencement of the present year, there were in commission 530 vessels of all classes and descriptions, armed with 3,000 guns and manned by 51,000 men, the number of vessels at present in commission is 117, with 830 guns and 12,128 men. By this prompt reduction of the naval forces the expenses of the Government have been largely diminished, and a number of vessels purchased for naval purposes from the merchant marine, have been returned to the peaceful pursuits of commerce. Since the suppression of active hostilities our foreign squadrons have been re-established, and consist of vessels much more efficient than those employed on similar service previous to the rebellion. The suggestion for the enlargement of the navy-yards, and especially for the establishment of one in fresh water for ironclad vessels, is deserving of consideration, as is also the recommendation for a different location and more ample grounds for the Naval Academy. ¶ In the report of the Secretary of War a general summary is given of the military campaigns of 1864 and 1865, ending in the suppression of armed resistance to the national authority in the insurgent States. The operations of the general administrative bureaus of the War Department during the past year are detailed, and an estimate of the appropriations that will be required for military purposes in the fiscal year commencing the 30th day of June, 1866. The national military force on the 1st of May, 1865, numbered 1,000,516 men. It is proposed to reduce the military establishment to a peace footing, comprehending 50,000 troops of all arms, organized so as to admit of an enlargement by filling up the ranks to 82,600, if the circumstances of the country should require an augmentation of the army. The volunteer force has already been reduced by the discharge from service of over 800,000 troops, and the Department is proceeding rapidly in the work of further reduction. The war estimates are reduced from doll. 516,240,131 to doll. 33,814,461, which amount, in the opinion of the department, is adequate for a peace establishment. The measures of retrenchment in each bureau and branch of the service exhibit a diligent economy worthy of commendation. Reference is also made in the report to the necessity of providing for a uniform militia system, and to the propriety of making suitable provision for wounded and disabled officers and soldiers. ¶ The revenue system of the country is a subject of vital interest to its honour and prosperity, and should command the earnest consideration of Congress. The Secretary of the Treasury will lay before you a full and detailed report of the receipts and disbursements of the last fiscal year, of the first quarter of the present fiscal year, of the probable receipts and expenditures for the other three quarters, and the estimates for the year following the 30th of June, 1866. I might content myself with a reference to that report, in which you will find all the information required for your deliberations and decision. But the paramount importance of the subject so presses itself on my own mind, that I cannot but lay before you my views of the measures which are required for the good character, and I might also say, for the existence of this people. The life of a republic lies certainly in the energy, virtue, and intelligence of its citizens; but it is equally true that a good revenue system is

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the life of an organized government. I meet you at a time when the nation has voluntarily burdened itself with a debt unprecedented in our annals. Vast as is its amount, it fades away into nothing when compared with the countless blessings that will be conferred upon our country and upon man by the preservation of the nation's life. Now, on the first occasion of the meeting of Congress since the return of peace, it is of the utmost importance to inaugurate a just policy, which shall at once be put in motion, and which shall commend itself to those who come after us for its continuance. We must aim at nothing less than the complete effacement of the financial evils that necessarily followed a state of civil war. We must endeavour to apply the earliest remedy to the deranged state of the currency, and not shrink from devising a policy which, without being oppressive to the people, shall immediately begin to effect a reduction of the debt, and, if persisted in, discharge it fully within a definitely fixed number of years. ¶ It is our first duty to prepare in earnest for our recovery from the ever-increasing evils of an irredeemable currency, without a sudden revulsion, and yet without untimely procrastination. For that end we must, each in our respective positions, prepare the way. I hold it the duty of the Executive to insist upon frugality in the expenditures; and a sparing economy is itself a great national resource. Of the banks to which authority has been given to issue notes secured by bonds of the United States we may require the greatest moderation and prudence, and the law must be rigidly enforced when its limits are exceeded. We may, each one of us, counsel our active and enterprising countrymen to be constantly on their guard, to liquidate debts contracted in a paper currency, and, by conducting business as nearly as possible on a system of cash payment or short credits, to hold themselves prepared to return to the standard of gold and silver. To aid our fellow citizens in the prudent management of their monetary affairs, the duty devolves on us to diminish by law the amount of paper money now in circulation. Five years ago the bank-note circulation of the country amounted to not much more than 200,000,000; now the circulation, bank and national, exceeds 700,000,000. The simple statement of the fact recommends more strongly than any words of mine could do the necessity of our restraining this expansion. The gradual reduction of the currency is the only measure that can save the business of the country from disastrous calamities; and this can be almost imperceptibly accomplished by gradually funding the national circulation in securities that may be made redeemable at the pleasure of the Government. ¶ Our debt is doubly secure; first, in the actual wealth and still greater undeveloped resources of the country; and, next, in the character of our institutions. The most intelligent observers among political economists have not failed to remark that the public debt of a country is safe in proportion as its people are free; that the debt of a Republic is the safest of all. Our history confirms and establishes the theory, and is, I firmly believe, destined to give it a still more signal illustration. The secret of this superiority springs not merely from the fact that in a Republic the national obligations are distributed more widely through countless numbers in all classes of society — it has its root in the character of our laws. Here all men contribute to the public welfare, and

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bear their fair share of the public burdens. During the war, under the impulses of patriotism, the men of the great body of the people, without regard to their own comparative want of wealth, thronged to our armies and filled our fleets of war, and held themselves ready to offer their lives for the public good. Now, in their turn, the property and income of the country should bear their just proportion of the burden of taxation, while in our impost system, through means of which increased vitality is incidentally imparted to all the industrial interests of the nation, the duties should be so adjusted as to fall most heavily on articles of luxury, leaving the necessaries of life as free from taxation as the absolute wants of the Government, economically administered, will justify. No favoured class should demand freedom from assessment, and the taxes should be so distributed as not to fall unduly on the poor, but rather on the accumulated wealth of the country. We should look at the National Debt just as it is — not as a national blessing, but as a heavy burden on the industry of the country, to be discharged without unnecessary delay. ¶ It is estimated by the Secretary of the Treasury that the expenditures for the fiscal year ending the 30th of June, 1866, will exceed the receipts doll. 112,194,947. It is gratifying, however, to state that it is also estimated that the revenue for the year ending the 30th of June, 1867, will exceed the expenditures in the sum of doll. 111,682,818. This amount, or so much as may be deemed sufficient for the purpose, may be applied to the reduction of the public debt, which, on the 31st day of October, 1865, was doll. 2,740,854,750. Every reduction will diminish the total amount of interest to be paid, and so enlarge the means of still further reductions, until the whole shall be liquidated; and this, as will be seen from the estimates of the Secretary of the Treasury, may be accomplished by annual payments even within a period not exceeding 30 years. I have faith that we shall do all this within a reasonable time; that, as we have amazed the world by the suppression of a civil war which was thought to be beyond the control of any Government, so we shall equally show the superiority of our institutions by the prompt and faithful discharge of our national obligations. ¶ The Department of Agriculture, under its present direction, is accomplishing much in developing and utilizing the vast agricultural capabilities of the country, and for information respecting the details of its management reference is made to the annual report of the Commissioner. ¶ I have dwelt thus fully on our domestic affairs because of their transcendent importance. Under any circumstances, our great extent of territory and variety of climate, producing almost everything that is necessary for the wants, and even the comforts of man, make us singularly independent of the varying policy of foreign Powers, and protect us against every temptation to „entangling alliances," while at the present moment the re-establishment of harmony, and the strength that comes from harmony, will be our best security against „nations who feel power and forget right." For myself, it has been and it will be my constant aim to promote peace and amity with all foreign nations and Powers; and I have every reason to believe that they all, without exception, are animated by the same disposition. Our relations with the Emperor of China, so recent in their origin, are most friendly. Our commerce with his dominions

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is receiving new developments; and it is very pleasing to find that the Government of that great empire manifests satisfaction with our policy, and reposes just confidence in the fairness which marks our intercourse. The unbroken harmony between the United States and the Emperor of Russia is receiving a new support from an enterprise designed to carry telegraphic lines across the continent of Asia, through his dominions, and so to connect us with all Europe by a new channel of intercourse. ¶ Our commerce with South America is about to receive encouragement by a direct line of mail steamships to the rising Empire of Brazil. The distinguished party of men of science who have recently left our country to make a scientific exploration of the natural history and rivers and mountain ranges of that region have received from the Emperor that generous welcome which was to have been expected from his constant friendship for the United States, and his well known zeal in promoting the advancement of knowledge. A hope is entertained that our commerce with the rich and populous countries that border the Mediterranean sea may be largely increased. Nothing will be wanting on the part of this Government to extend the protection of our flag over the enterprise of our fellow-citizens. We receive from the Powers in that region assurances of good will; and it is worthy of note that a special envoy has brought us messages of condolence on the death of our late Chief Magistrate from the Bey of Tunis, whose rule includes the old dominions of Carthage, on the African coast. ¶ Our domestic contest, now happily ended, has left some traces in our relations with one, at least, of the great maritime Powers. The formal accordance of belligerent rights to the insurgent States was unprecedented, and has not been justified by the issue. But in the systems of neutrality pursued by the Powers which made that concession there was a marked difference. The materials of war for the insurgent States were furnished in a great measure from the workshops of Great Britain; and British ships, manned by British subjects, and prepared for receiving British armaments, sailed from the ports of Great Britain to make war on American commerce, under the shelter of a commission from the insurgent States. These ships, having once escaped from British ports, ever afterward entered them in every part of the world, to refit, and so to renew their depredations. The consequences of this conduct were most disastrous to the States then in rebellion, increasing their desolation and misery by the prolongation of our civil contest. It had, moreover, the effect, to a great extent, of driving the American flag from the sea and to transfer much of our shipping and our commerce to the very Power whose subjects had created the necessity for such a change. These events took place before I was called to the administration of the Government. The sincere desire for peace by which I am animated led me to approve the proposal, already made, to submit the questions which had thus arisen between the countries to arbitration. These questions are of such moment that they must have commanded the attention of the great Powers, and are so interwoven with the peace and interests of every one of them as to have ensured an impartial decision. I regret to inform you that Great Britain declined the arbitrament; but, on the other hand, invited us to the formation of a joint commission to

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settle mutual claims between the two countries, from which those for the depredations before-mentioned should be excluded. The proposition, in that very unsatisfactory form, has been declined. ¶ The United States did not present the subject as an impeachment of the good faith of a Power which was professing the most friendly dispositions, but as involving questions of public law, of which the settlement is essential to the peace of nations, and, though pecuniary reparation to their injured citizens would have followed incidentally on a decision against Great Britain, such compensation was not their primary object. They had a higher motive, and it was in the interests of peace and justice to establish important principles of international law. The correspondence will be placed before you. The ground on which the British Minister rests his justification is, substantially, that the municipal law of a nation, and the domestic interpretations of that law, are the measure of its duty as a neutral and I feel bound to declare my opinion, before you and before the world, that that justification cannot be sustained before the tribunal of nations. At the same time I do not advise to any present attempt to redress by acts of legislation. For the future, friendship between the two countries must rest on the basis of mutual justice. ¶ From the moment of the establishment of our free Constitution the civilized world has been convulsed by revolutions in the interests of democracy or of monarchy; but through all those revolutions the United States have wisely and firmly refused to become Propagandists of Republicanism. It is the only Government suited to our condition; but we have never sought to impose it on others; and we have consistently followed the advice of Washington, to recommend it only by the careful preservation and prudent use of the blessing. During all the intervening period the policy of European Powers and of the United States has, on the whole, been harmonious. Twice, indeed, rumours of the invasion of some parts of America in the interest of monarchy have prevailed; twice my predecessors have had occasion to announce the views of this nation in respect to such interference. On both occasions the remonstrance of the United States was respected, from a deep conviction, on the part of European Governments, that the system of non-interference and mutual abstinence from Propagandism was the true rule for the two hemispheres. Since those times we have advanced in wealth and power; but we retain the same purpose to leave the nations of Europe to choose their own dynasties and form their own systems of government. This consistent moderation may justly demand a corresponding moderation. We should regard it as a great calamity to ourselves, to the cause of good government, and to the peace of the world, should any European Power challenge the American people, as it were, to the defence of Republicanism against foreign interference. We cannot foresee, and are unwilling to consider, what opportunities might present themselves, what combinations might offer, to protect ourselves against designs inimical to our form of government. The United States desire to act in the future as they have ever acted heretofore. They never will be driven from that course but by the aggression of European Powers; and we rely on the wisdom and justice of those Powers to respect the system of non-interference which has so long been

sanctioned by time, and which, by its good results, has approved itself to both continents. ¶ The correspondence between the United States and France, in reference to questions which have become subjects of discussion between the two Governments, will, at a proper time, be laid before Congress. ¶ When, on the organization of our Government, under the Constitution, the President of the United States delivered his inaugural address to the two Houses of Congress, he said to them, and through them to the country and to mankind, that „the preservation of the sacred fire of liberty and the destiny of the republican model of government are justly considered as deeply, perhaps as finally staked on the experiment intrusted to the American people.“ And the House of Representatives answered Washington by the voice of Madison: „We adore the invisible hand which has led the American people through so many difficulties, to cherish a conscious responsibility for the destiny of republican liberty.“ More than 76 years have glided away since these words were spoken; the United States have passed through severer trials than were foreseen; and now, at this new epoch in our existence as one nation, with our Union purified by sorrows and strengthened by conflict, and established by the virtue of the people, the greatness of the occasion invites us once more to repeat with solemnity the pledges of our fathers to hold ourselves answerable before our fellow-men for the success of the Republican form of government. Experience has proved its sufficiency in peace and in war; it has vindicated its authority through dangers and afflictions, and sudden and terrible emergencies, which would have crushed any system that has been less firmly fixed in the heart of the people. ¶ At the inauguration of Washington the foreign relations of the country were few, and its trade was repressed by hostile regulations; now all the civilized nations of the globe welcome our commerce, and their Governments profess towards us amity. Then our country felt its way hesitatingly along an untried path, with States so little bound together by rapid means of communication as to be hardly known to one another, and with historic traditions extending over very few years; new intercourse between the States is swift and intimate; the experience of centuries has been crowded into a few generations, and has created an intense, indestructible nationality. Then our jurisdiction did not reach beyond the inconvenient boundaries of the territory which had achieved independence; now, through cessions of lands, first colonized by Spain and France, the country has acquired a more complex character, and has for its natural limits the chain of Lakes, the Gulf of Mexico, and on the east and west the two great oceans. Other nations were wasted by civil wars for ages before they could establish for themselves the necessary degree of unity; the latent conviction that our form of government is the best ever known to the world has enabled us to emerge from civil war within four years, with a complete vindication of the constitutional authority of the general Government, and with our local liberties and State institutions unimpaired. ¶ The throngs of emigrants that crowd to our shores are witnesses of the confidence of all people in our permanence. Here is the great land of free labour, where industry is blessed with unexampled rewards, and the bread of the working man is sweetened by the consciousness that the cause of

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the country „is his own cause, his own safety, his own dignity.“ Here every one enjoys the free use of his faculties and the choice of activity as a natural right. Here, under the combined influence of a fruitful soil, genial climes, and happy institutions, population has increased fifteenfold within a century. Here, through the easy development of boundless resources, wealth has increased with twofold greater rapidity than numbers, so that we have become secure against the financial vicissitudes of other countries, and, alike in business and in opinion, are self-centred and truly independent. Here more and more care is given to provide education for every one born on our soil. Here religion, released from political connexion with the Civil Government, refuses to subserve the craft of statesmen, and becomes, in its independence, the spiritual life of the people. Here toleration is extended to every opinion, in the quiet certainty that truth needs only a fair field to secure the victory. Here the human mind goes forth unshackled in the pursuit of science, to collect stores of knowledge and acquire an ever increasing mastery over the forces of nature. Here the national domain is offered and held in millions of separate freeholds, so that our fellow citizens, beyond the occupants of any other part of the earth, constitute in reality a people. Here exists the democratic form of government; and that form of government, by the confession of European statesmen, „gives a power of which no other form is capable, because it incorporates every man with the States, and arouses everything that belongs to the soul.“ ¶ Where, in past history, does a parallel exist to the public happiness which is within the reach of the people of the United States? Where, in any part of the globe, can institutions be found so suited to their habits or so entitled to their love as their own free Constitution? Every one of them then, in whatever part of the land he has his home, must wish its perpetuity. Who of them will not now acknowledge, in the words of Washington, that „every step by which the people of the United States have advanced to the character of an independent nation, seems to have been distinguished by some token of Providential agency?“ Who will not join with me in the prayer that the invisible hand which has led us through the clouds that gloomed round our path will so guide us onward to a perfect restoration of fraternal affection that we of this day may be able to transmit our great inheritance of State Governments in all their rights, of the General Government in its whole constitutional vigor, to our posterity, and they to theirs through countless generations?

Washington, Dec. 4, 1865. *Andrew Johnson.*

No. 2035.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Königl. Grossbrit. Min. d. Ausw. — Ersuchen um Auslieferung der in Liverpool eingelaufenen Shenandoah.*) —

Legation of the United States, London, Nov. 7, 1865.

No. 2035. Vereinigte Staaten, 7. Nov. 1865.

My Lord, — I have the honour to submit to your consideration the copy of a letter received by me from the Vice-Consul of the United States at Liverpool,

*) No. 1982.

touching the arrival yesterday of the vessel known as the Shenandoah at that port. ¶ Although necessarily without special instructions relative to this case, I do not hesitate to assume the responsibility of respectfully requesting of Her Majesty's Government to take possession of the said vessel, with a view to deliver it into the hands of my Government, in order that it may be properly secured against any renewal of the audacious and lawless proceedings which have hitherto distinguished its career. ¶ I perceive by the terms of the Vice-Consul's letter that some of the chronometers saved from the vessels which have fallen a prey to this corsair are stated to be on board. I pray your Lordship that proper measures may be taken to secure them in such manner that they may be returned on claim by the owners to whom they justly belong.

No. 2035. Vereinigte Staaten, 7. Nov. 1865.

Inasmuch as the ravages of this vessel appear to have been continued long after she ceased to have a belligerent character, even in the eyes of Her Majesty's Government, it may become a question in what light the persons on board and engaged in them are to be viewed before the law. The fact that several of them are British subjects is quite certain. While I do not feel myself prepared at this moment, under imperfect information, to suggest the adoption of any course in regard to them, I trust I may venture to hope that Her Majesty's Government will be induced voluntarily to adopt that which may most satisfy my countrymen, who have been such sufferers, of its disposition to do everything in its power to mark its high sense of the flagrant nature of their offences. ¶ I pray, &c.

Charles Francis Adams.

To the Earl **Clarendon.**

No. 2036.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Ver. Staaten in London. — Die Auslieferung der Shenandoah und das Verfahren gegen die Mannschaften derselben betr. —

Foreign-Office, Nov. 11, 1865.

Sir, — I have the honour to state to you, in reply to your letter of the 7th inst., that it appears by a communication from the Board of Admiralty, that the Shenandoah was on the 10th inst. delivered up by the senior naval officer at Liverpool to the United States' Consul at that port with everything on board of her, the Consul being also furnished with the inventories of the stores, &c., as received by the naval authorities from the late commander of the vessel. ¶ With regard to the officers and crew of the Shenandoah, I have the honour to state to you that on the arrival of the vessel at Liverpool it was ascertained that three bad cases of scurvy were on board of her and that a number of men had symptoms of that disease; and it was therefore necessary that measures should immediately be taken for disposing of the officers and crew. ¶ I need scarcely observe to you that any proceedings against persons in their situation, as indeed is the case with all other persons in this country, must be founded on some

No. 2036. Gross-britannien, 11. Nov. 1865.

No. 2036. Gross-britannien, 11. Nov. 1865. definite charge of an offence cognizable by British law, and must be supported by proper legal evidence; and that in the absence of such charge duly supported by evidence, Her Majesty's Government could not assume or exercise the power of keeping any of them under any kind of restraint. ¶ Her Majesty's Government were not in possession of any evidence which could be produced before any Court or magistrate for the purpose of controverting the statement made to them by the commander of the Shenandoah in the letter of which I enclose a copy *) or for the purpose of showing that the crime of piracy had in fact been committed by the vessel. ¶ It only remained, therefore, to ascertain whether any of the parties were British subjects, and, if so, whether any sufficient evidence could be obtained against them to warrant a prosecution on a charge of violating the provisions of the Foreign Enlistment Act, by taking part in hostilities on board the vessel. ¶ Accordingly, the Board of Admiralty were instructed by the Secretary of State for the Home Department to cause the necessary inquiry to be instituted in regard to the presence on board of persons of the last-mentioned class, and if evidence could be obtained against any of them to cause them to be detained and taken before a magistrate, and to allow the rest to go free. ¶ In pursuance of these instructions, the senior naval officer at Liverpool at once proceeded on board the Shenandoah, and, having mustered the crew, he reports himself to have been "fully satisfied that they were all foreigners, and that there were none known to be British-born subjects on board;" whereupon they were all landed with their effects. ¶ I am, &c.

Clarendon.

To. Mr. Adams.

No, 2037.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Die Auslieferung der Shenandoah betr. —

Legation of the United States, London, Nov. 14, 1865.

No. 2037. Vereinigte Staaten, 14. Nov. 1865. My Lord, — I have the honour to acknowledge the receipt of your Lordship's note of the 11th inst., announcing to me the fact the Shenandoah had been delivered up by order of the Board of Admiralty to the United States' Consul at Liverpool, together with all her stores, &c., as received from her late commander. I had already received the same intelligence from the Consul who has taken charge of her under my instructions. I entertain no doubt that the promptness of this proceeding will give great satisfaction to my Government. ¶ But I cannot affect to conceal my disappointment at the manner in which Her Majesty's Government have decided to treat the persons who have been engaged in the nefarious transactions perpetrated in that vessel, and especially the chief, a copy of whose letter was received with your lordship's note. A narrative of but a portion of these outrages it has already been my duty to submit to your

*) No. 1982.

consideration in a series of voluminous papers, the character of which it is impossible to forget. I shall carefully abstain from any unauthorized word of mine which might tend to make a situation already much too grave still more serious. ¶ A copy of your lordship's letter, together with its inclosure, shall be transmitted by the earliest opportunity to my Government. ¶ I pray, &c.

No. 2037. Vereinigte Staaten, 14. Nov. 1865.

Charles Francis Adams.

To the Earl Clarendon.

No. 2038.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Ver. Staaten in London. — Das Verfahren gegen die Mannschaft der Shenandoah betr. —

Foreign-Office, Nov. 17, 1865.

No. 2038. Grossbritannien, 17. Nov. 1865.

Sir, — Her Majesty's Government are glad to find by your letter of the 14th inst. that you entertain no doubt that the promptness of the proceeding taken by them for the delivery up of the "Shenandoah" will give great satisfaction to the Government of the United States. ¶ With respect, however, to the disappointment which you express as to the manner in which the officers and crew of that vessel have been dealt with by Her Majesty's Government, after having before them the voluminous papers with which you had furnished them showing the character of the proceedings in which they were engaged, I must observe that there was nothing in the depositions and other papers of which you forwarded copies to this office which, even if it had been capable of being substantiated in evidence in this country by deponents present at Liverpool before the crew of the Shenandoah were dispersed, would have tended to show that any capture had been made, or attempted, by Captain Waddell or his crew after, and with notice of, the termination of the war; and I must further observe that even if the case had been otherwise those papers would not have been receivable as evidence before any magistrate, and that unless some material facts could have been deposed to by one or more witnesses present in this country no magistrate could have kept any persons in custody upon any charge founded upon the statements in those papers. ¶ I may add that if any evidence in support of a charge of piracy had been forthcoming it was quite as competent for any officer or agent of the Government of the United States, or even of any private person, to have taken the necessary proceedings before a magistrate, as it was for Her Majesty's Government to do so. ¶ I am, &c.

Clarendon.

To Mr. Adams.

No. 2039.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in London an den Königl. Grossbrit. Min. d. Ausw. — Verstärkte Wiederholung früherer Beschwerden über die Haltung Englands gegenüber den Schiffen der s. g. Conföderirten.*) —

Legation of the United States, London, Oct. 21, 1865.

No. 2039. Vereinigte Staaten, 21. Oct. 1865.

My Lord,—Under instructions from my Government, I have the honour to submit to your consideration copies of certain papers marked A, relative to the destruction of the whaling bark William C. Nye by the vessel known under the name of the Shenandoah**). ¶ I am further directed to state that in view of the origin, equipment, and manning of that vessel my Government claims to look to that of Great Britain for indemnification for this and other losses that have been occasioned by her depredations. ¶ In order that the facts attending this particular case may be more fully laid before you, I pray your Lordship's attention to the series of papers marked B, herewith transmitted, which relate to a very material portion of this vessel's career. ¶ In the statement of this case I shall endeavour to confine myself to a recapitulation of the principal facts. To this end it will be necessary for me to recall your attention to certain portions of the correspondence which I have heretofore had the honour to hold with your Lordship. ¶ In the letter which I was directed to address to your Lordship on the 6th of September, 1864, when I was under the painful necessity of remonstrating against the conduct of the commander of the yacht Deerhound in rescuing from the hands of the victor in the strife many of the crew of the Alabama, I received orders to submit to your consideration four propositions, two of which were in the following words: —

"3. That the continuance of these persons to receive from any British authorities or subjects pecuniary assistance or supplies, or the regular payment of wages, for the purpose of more effectually carrying on hostile intentions from this kingdom as a base, is a grievance against which it is my duty to remonstrate, and for which I ask a remedy in their conviction and punishment.

"4. The occasion has been thought to warrant a direction to me to ask with earnestness of Her Majesty's Government that it should adopt such measures as may be effective to prevent the preparation, equipment, and outfit of any further naval expedition from British shores to make war against the United States."

To these propositions your Lordship was pleased to reply on the 26th of September, by stating that the rescue of those people from the sea, and from their captors, was regarded by you as a praiseworthy act of humanity, and that after their escape into this kingdom as a refuge any attempt to restore them could be viewed by you only as a violation of hospitality. No action whatever, so

*) No. 1974 folg.

**) Die Anlagen *A* und *B* dieser Note sind zu umfangreich zur Veröffentlichung in der London Gazette befunden worden.

far as I have had an opportunity of knowing, has followed upon either of these requests. ¶ On the 10th of November following I took the liberty of calling your Lordship's attention to the fact that these refugees, who had been enjoying the hospitality of a neutral kingdom, were in reality persons most of them British subjects, originally enlisted within this kingdom for an unlawful purpose, actually still engaged in the same business, and held together with a view of making a part of another enterprise of the same sort with that of the Alabama, conceived and executed in all its parts by agents of the rebels residing all the time under the protection of Her Majesty's neutral territory at Liverpool. ¶ The result, as displayed in the papers now submitted, shows conclusively that the "refuge" spoken of by your Lordship has been turned into a den of robbers; and that the humanity so freely commended has in its consequences been productive of widespread suffering to many industrious and innocent men. ¶ On the 18th of November, 1864, I had the honour to transmit to your Lordship certain evidence which went to show that on the 8th of October preceding a steamer had been despatched under the British flag from London, called the Sea King, with a view to meet another steamer called the Laurel, likewise bearing that flag, despatched from Liverpool on the 9th of the same month, at some point near the Island of Madeira. These vessels were at the time of sailing equipped and manned by British subjects, yet they were sent out with arms, munitions of war, supplies, officers and enlisted men, for the purpose of initiating a hostile enterprise to the people of the United States, with whom Great Britain was at the time under solemn obligations to preserve the peace. ¶ It further appears that on or about the 18th of the same month these vessels met at the place agreed upon, and there the British commander of the Sea King made a formal transfer of the vessel to a person of whom he then declared to the crew his knowledge that he was about to embark on an expedition of the kind described. Thus knowing its nature he, nevertheless, went on to urge these seamen, being British subjects, themselves to enlist as members of it. ¶ It is also clear that a transfer then took place from the British steamer Laurel to the Sea King of the arms of every kind with which she was laden for this same object; and, lastly, of a number of persons, some calling themselves officers, who had been brought from Liverpool expressly to take part in the enterprise. Of these last a considerable portion consisted of the very same persons, many of them British subjects, who had been rescued from the waves by British intervention at the moment when they had surrendered from the sinking Alabama, the previous history of which is but too well known to your Lordship. ¶ Thus equipped, fitted out, and manned from Great Britain, this successor to the destroyed corsair, now assuming the name of the Shenandoah, though in no other respect changing its British character, addressed itself at once to the work for which it had been destined. At no time in her later career has she ever reached a port of the country which her commander has pretended to represent. At no instant has she earned any national characteristic other than that with which she started from Great Britain. She has thus far roamed over the ocean receiving her sole protection against the consequences of the most piratical acts from the gift of a

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nominal title which Great Britain first bestowed upon her contrivers, and then recognized as legitimatizing their successful fraud. ¶ I am not unmindful of the grounds which have been heretofore assigned by your Lordship as releasing Her Majesty's Government from responsibility for the flagrant conduct of this vessel. It is urged that there is no power to prevent vessels bearing the semblance of merchant ships from leaving the ports of this kingdom and meeting each other at some place on the ocean far beyond Her Majesty's jurisdiction for the execution of a purpose like that now in question. The parties to it violate no law of the land, provided they commit no offence against the neutrality of the kingdom within its territorial limits. While I cannot myself quite appreciate the force of this reasoning, so far as it may be applied to absolve one nation from its international obligations with another merely on account of the skill of its subjects in evading the local law, I am at the same time not disposed to underrate the difficulties which the best-intentioned Government may, in performing its duty, experience from that cause. Its will may certainly be sometimes baffled by the arts of desperate and profligate adventurers. ¶ Did the merits of this case depend upon the mere fact of the escape of the vessel from a British port by eluding the vigilance of the authorities, it might, perhaps, be considered as not entailing upon Her Majesty's Government so heavy a responsibility. There are other circumstances connected with that event which aggravate its nature. One of the most grave appears to be the fact that, after the escape had occurred, and the nefarious project had been consummated, Her Majesty's Government, nevertheless, instead of taking prompt measures to denounce the transaction thus completed in defiance of its authority, and refusing to give it the smallest countenance in any British port, deliberately proceeded to accept the result as legitimate, and to direct that this vessel so constituted should be from that moment entitled to all the privileges which an honest belligerent might claim or any vessel of the United States would enjoy. ¶ The consequences of what I cannot but regard as this most unfortunate construction of international law, by which success in committing the fraud was made the only test to purge it of its offensive nature, have been manifested in the manner in which the Shenandoah was received wherever it went in the British dependencies. The supplies there obtained, under one pretence and another, particularly in the remote ports of Australia, have enabled this vessel to keep the seas, and to continue her depredations long after she had been stripped of the last shadow of the character with which Her Majesty's Government voluntarily chose to invest her at the outset. It is impossible to read the papers which have been forwarded to my Government from the Consul at Melbourne, copies of which are submitted with this note, without feeling that in no instance on record have similar concessions been made to a vessel of such a fraudulent origin, or such offensive partiality been manifested towards it by a portion of a nation professing to style itself neutral. In consenting to receive this vessel, after the facts of its illegal origin and outfit had been satisfactorily established, I cannot resist the conviction that Her Majesty's Government assumed a responsibility for all the damage which it has done, and which, down to the latest accounts, it was still doing, to the peaceful commerce of the

United States on the ocean. ¶ I pray permission to call your Lordship's attention to still another of the circumstances which appear to me among the most grave belonging to this case. This enterprise seems to have been the last of the series conceived, planned, and executed exclusively within the limits of this kingdom. It emanated from persons established here since the beginning of the war as agents of the rebel authorities, who have been more effectively employed in the direction and superintendence of hostile operations than if they had been situated in Richmond itself. In other words, so far as the naval branch of warfare is concerned, the real bureau was fixed at Liverpool, and not in the United States. The vessels were constructed or purchased, the seamen enlisted, the armament obtained, the supplies of every kind procured, the cruises projected, and the officers and men regularly paid here. In other words, all the war made on the ocean has been made from England as the starting point. I have had the honour to furnish from time to time to your Lordship evidence of the most conclusive character touching most of these points, and I have even designated the chief individuals to whom the supreme direction of the operations had been intrusted. I fail to be able to recall in history a case of more flagrant and systematic abuse of the neutrality of a country by a belligerent, kept up for an equal length of time. But what I cannot but think still more remarkable is that, notwithstanding the fact of the frequent representations and remonstrances made by myself under the instructions of my Government, so far as I have been permitted to learn, not a single effort was ever made by Her Majesty's Government either to prevent or to punish the persons known to engaged in this most extraordinary violation of the law of the land. Prosecutions have been instituted, indeed, against a few persons who were alleged to have been acting in contravention of the provisions of the Enlistment Act. Mr. Rumble, after escaping from justice by the leniency of a jury, received a decided censure from the Government; Captain Corbett, the officer commanding the Sea King, though prosecuted, appears never to have been brought to trial. But these and a few minor cases were exclusively those of British subjects, who appear to have been acting merely as instruments of a power above their heads. Not a single individual directly connected with the rebellion, and sent here to conduct the operations, has ever been molested in any manner. It cannot, therefore, be at all a matter of surprise when the mainspring of the various naval enterprises, the director of the Alabamas, Floridas, Georgias, and Shenandoahs, was left wholly undisturbed, that is has been impossible to put a stop to the damage which has ensued to the people of the United States from the ravage and depredation committed upon them by the operations carried on from this kingdom. At the very time when the fortunate encounter of the Alabama by the United States' steamer Kearsage terminated in the destruction of one of these corsairs, the offspring of the violated law of this land, and when the people of the United States were congratulating themselves that one great cause of irritation between the two countries was at last laid to rest, it now appears that the directing power to which I have alluded at once turned its attention to a husbanding of the seamen saved by a trick from the hands of the victor, with a view to the immediate production of a successor

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to the same work. The evidence which I now have the honour to submit shows that many of the crew saved from the Alabama have been from the beginning, and still continue to be, a part of the crew of the Shenandoah. Neither does it appear from anything within my knowledge that the smallest attention was ever paid by Her Majesty's Government to the representations which I had the honour to submit at the time touching the probability of precisely such an operation. ¶ That the principal person engaged in the direction of this bureau was an officer by the name of J. D. Bullock, expressly despatched from Richmond for the purpose of organizing it, is a fact to which I had the honour to call your Lordship's attention in many different forms during the progress of the struggle. Yet, in spite of all this evidence, Mr. Bullock appears to have been permitted to conduct his operations, and especially to shape the outfit and the entire cruise of the Shenandoah, without the smallest interference from any official quarter. ¶ It may, however, be objected that, whatever may have been the nature of my remonstrances, no sufficient evidence was presented of the official character and proceedings of Mr. Bullock to sustain the initiation of any prosecution against him in the Courts. To which I am pained to be constrained to reply that my Government has reason to believe that Her Majesty's Government has in one instance considered that evidence sufficient to sustain it in recognizing the authority of Mr. Bullock over the commander of the Shenandoah so far as to stop its career, and in consenting to furnish the medium by which to transmit his orders to that vessel. The power to prevent certainly implies the previous existence of a power to control. I beg permission to express the hope hat inasmuch as the papers in which this fact appears has not come into the hands of my Government by direct communication from your Lordship I may presume them not to be genuine. ¶ Should the fact be otherwise, however, while readily conceding that the motive for such a proceeding may have been substantially of the most friendly nature, in accelerating the termination of the ravage committed by that vessel, I do not at the same time feel at liberty longer to disguise from your Lordship the sense of extreme surprise which the knowledge of it has caused, not less on account of the singular recognition thus incidentally made of the authority of one long since pointed out as the principal offender against the neutrality of this kingdom, and enjoying a degree of impunity difficult to be understood, than of the fact that Her Majesty's Government appears to have determined thus to act without deigning any friendly signification of its purpose to the party most directly interested in the decision. ¶ Since the preceding was written I have had the honour to receive unofficially from your Lordship the gratifying intelligence that Her Majesty's Government have decided to send orders to detain the Shenandoah if she comes into any of Her Majesty's ports, and to capture her if she be found on the high seas. I have taken great pleasure in transmitting this to my Government. At the same time, I trust I may be pardoned if I am compelled to remark that had Her Majesty's Government felt it to be consistent with its views to adopt this course at the time when it adopted that upon which it has been my painful duty to animadvert, it would have most materially contributed to allay the irritation in my own country inseparable from the later outra-

ges committed by that vessel. ¶ Having thus acquitted myself of the unpleasant duty with which I have been charged, I pray, &c.

No. 2039. Vereinigte Staaten, 21. Oct. 1865.

Charles Francis Adams.

To the Earl Russell.

No. 2040.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Ver. Staaten in London. — Wiederholte Bestreitung der erhobenen Entschädigungsansprüche in Antwort auf die vorausgehende Note. —

Foreign-Office, Nov. 18, 1865.

No. 2040. Grossbritannien, 18. Nov. 1865.

Sir, — I have now the honour to reply to the letter which you addressed to my predecessor on the 21st of October last respecting the proceedings of the late Confederate steamer Shenandoah in the Pacific. ¶ But I must, in the first instance, observe that in alluding to the answer given to you by Lord Russell on the 26th of September, 1864, respecting the conduct of the yacht Deerhound in rescuing from the sea a portion of the crew of the Confederate steamer Alabama, after her conflict with the United States' cruiser Kearsage, you omit to notice the principal passage in that answer in which Lord Russell says, "In point of fact, however, Her Majesty's Government have no lawful power to arrest and deliver up the persons in question" (that is, the persons rescued from the sinking Alabama). "They have been guilty of no offence against the laws of England, and they have committed no act which could bring them within the provisions of the treaty between Great Britain and the United States for the mutual surrender of offenders; and Her Majesty's Government are, therefore, entirely without any legal means by which, even if they wished to do so, they could comply with your above-mentioned demand" (namely, that those officers and men should now be delivered up to the Government of the United States as escaped prisoners of war). ¶ I may add, that if beyond the limits of British territory the commander of the Deerhound had improperly interfered to protect the officers and crew of the Alabama from the belligerent rights of the United States, it was for the commander of the Kearsage to use the means in his power for the prevention of such interference. Once upon British soil, they were entitled to the protection of British laws, which they had in no respect violated; and Her Majesty's Government could not deprive them of that protection because of the possibility (whether afterwards realized or not) that they might again leave this country and become engaged in further hostilities with the United States. The demand for their delivery up, which was made by you in fact, was identical with one which had at various times been made by foreign Governments for the extradition or expulsion of other foreign refugees — Poles, Hungarians, and others; and to which the invariable answer had been that the laws of this country did not empower the Government to take any such measure. The answer to every such demand is found in the fundamental institutions of this country, in the law of *habeas*

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corpus, and of trial by jury. If any evidence had been offered to Her Majesty's Government identifying any of those persons as British subjects who had unlawfully enlisted in the service of the Confederate States, or who were guilty of any other violation of our laws, they would have been duly prosecuted; but no such evidence was brought forward. ¶ The case of the Deerhound, therefore, furnishes, when examined, no materials for complaint against Her Majesty's Government. ¶ The next subject of complaint preferred by you is the conduct of Her Majesty's Government in not preventing the vessel called the Sea King from leaving the shores of England to join another vessel called the Laurel, which was sent to meet her near Madeira with arms and ammunition. ¶ You do not affirm that Her Majesty's Government had any power or jurisdiction over either of these vessels when beyond the limits of British territory; but, unless that assertion be made or implied, the complaint falls to the ground. For while these vessels were in British waters no information was given (much less any evidence offered) to Her Majesty's Government to show that any persons concerned in their outfit or equipment were guilty of or were contemplating any infringement of the Foreign Enlistment Act, or of any other law in force in the United Kingdom, nor even that they were suspected of being engaged in any design whatever, hostile or dangerous to the United States. ¶ Your complaint, indeed, is against the general laws of this country. The executive power of the British Crown does not, nor does the executive power (as the Act of Congress of 1818 is understood in this country) of the United States, extend to the detention and seizure of an unarmed merchant vessel, on the mere suspicion that she will or may be armed at sea in the waters of a foreign Power. ¶ Under the municipal law of this country (which goes at least as far as any obligation which may be supposed to attach to it under the law of nations) the British Government is able to detain and prosecute natural-born British subjects who may enter into the war service of a foreign Power without the licence of the Crown, or who within Her Majesty's dominions may fit out, arm, or equip (or attempt to fit out, arm, or equip), vessels to cruise or commit hostilities against any State in amity with Her Majesty. But the British laws do not and cannot effectually reach subjects of Her Majesty who may go to a foreign State, and there enter into any kind of naval or military service. You are well aware that many subjects of Her Majesty have gone from this country to the United States, and have there, during the present war, entered into the military service of the United States, and fought against the armies of the Confederates, contrary to Her Majesty's proclamation. ¶ Such occurrences as these the law of England (and, Her Majesty's Government believe, the law of the United States) cannot prevent, and has very rarely the power to punish. It is obvious (as you indeed admit) that the law which prohibits the equipment of vessels destined to make war on States with which Her Majesty is at peace may, like most other human laws, be evaded. No human means can in all cases effectually prevent individuals from purchasing or otherwise acquiring a vessel with the secret intention of arming her beyond the territorial limits of the country, and then cruising against a State with which Herr Majesty is at peace, or from successfully executing that inten-

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tion. It is distinctly denied that the Government of any State is, upon any recognized principle of international law, responsible for such an event. ¶ Feeling, as it would seem, that for the equipment and armament of the Shenandoah no original responsibility can reasonably be cast on Her Majesty's Government, you represent as the main substance of this part of your complaint, that this vessel, after she had been equipped and commissioned, was recognized by Her Majesty's Government as a public ship of war of a lawful belligerent, and was admitted as such into British ports. ¶ This is in truth nothing more than the often repeated objection to the course adopted by Her Majesty's Government in recognizing both parties in the late war as belligerents, and (if belligerents at all) then as belligerents wherever they were found actually carrying on war, whether by sea or by land. You are of course aware that the Sea King was transferred, when beyond the territory of Her Majesty, to the agents of the Confederate States, and from them (while still beyond Her Majesty's territory) received a commission as a ship of war under the name of the Shenandoah. It was a necessary consequence of the principle of neutrality, and of the recognition of the state of war (by virtue of which alone the blockade was enforced with so much severity against neutrals by the United States), that the validity, for the purposes of the war, of such a commission should be recognized by the Government of this country. ¶ The supplies given to this vessel, and the hospitality afforded to her in a British port during the continuance of the war, were merely the same which were always afforded to the vessels of war of the United States; to refuse them in such a case would have been not to vindicate, but to depart from the neutrality declared by Her Majesty. If the fact were (as you suggest) that the supplies so afforded had the effect of enabling the Shenandoah to continue hostilities after the Confederate States had ceased to be belligerents, it is obvious that such an occurrence might equally take place in any other case in which a ship of war of any belligerent nation, having taken in ordinary supplies at a neutral port, might continue hostilities after the restoration of peace, either through ignorance of that fact, or from any less excusable motive. ¶ So far, then, as your objection to the enjoyment of belligerent rights by the Shenandoah in the ports of Great Britain is founded on the allegation of her original illegal equipment, I have already sufficiently pointed out that the circumstances of her equipment were not such as in the eye of the English law, or consequently in the view of the English Government, could be regarded as illegal. She was, therefore, as long as the war subsisted, naturally treated on the same footing as any other vessel of a recognized belligerent Power. ¶ But even had the case been otherwise, and had her equipment and origin been undoubtedly illegal, I should have experienced hardly less surprise at the claim put forward on behalf of the United States in the following sentence of your despatch: — "In consenting to receive the vessel after the facts of its illegal origin and outfit had been satisfactorily established, I cannot resist the conviction that Her Majesty's Government assumed a responsibility for all the damage which it has done." ¶ If I needed (which in this case I do not) to find an answer to a claim founded upon such principles, I should have to seek no further than the records of recent American law and the practice of modern

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American statesmen. In that chapter of American history which has lately become familiar in these discussions, relating to the transactions which arose out of the revolt of the South American Republics, will be found a complete refutation from American authorities of the doctrine on which you now appear to insist. ¶ As you are well aware, numerous vessels of war were fitted and re-fitted under the commission of the revolted States in the ports of the United States to cruise against the commerce of Spain and Portugal. These vessels started on their original voyage, manned and armed in the ports and by the subjects of the United States, and returned to the same ports over and over again after repeated cruises. Though the fact of the illegal origin and equipment of such vessels was established, not by vague surmise or *ex parte* statement, but (in several instances) by judicial proof adduced in suits instituted for the restoration of their prizes when brought within the neutral jurisdiction, the Government of the United States does not appear ever to have taken any step for the purpose of excluding any of those vessels from the full and unrestricted enjoyment, within their own ports or elsewhere, of the same rights (with the single exception of the right to retain prizes brought in) which it accorded to any other ships-of-war of a belligerent Power. ¶ Nevertheless, so far from admitting that by such conduct, as you now contend, they "assumed a responsibility for all the damage done" by such vessels, your Government distinctly repudiated any such responsibility when urged upon them by arguments almost identical with those on which you now rely. ¶ While admitting that several prosecutions have been instituted by Her Majesty's Government against persons amenable to British law who had been shown by probable evidence to have been guilty of violating the Foreign Enlistment Act (Captain Corbett, of the Sea King, to whom you refer as having never been brought to trial, is awaiting his trial at the present moment*), you make it, nevertheless, matter of complaint that no legal proceedings have been taken against any of the Confederate agents in this country, under whose direction and management various operations, in abuse of Her Majesty's neutrality, are said to have been conducted. ¶ But no information supported by evidence on which a prosecution could be judiciously instituted or successfully maintained has ever been laid before Her Majesty's Government for the purpose of showing that the laws of this country were, in fact, so violated by any of those persons. ¶ You are well aware of the extent to which not only municipal, but also international law permits either of two belligerents to avail themselves of the resources of a neutral country, by mercantile agencies, by loans of money, and by the purchase and shipment of every kind of munitions of war, without giving to the other belligerent any cause of complaint against the country where such operations are carried on. Full advantage has been taken of this state of international law by the United States themselves during the recent contest. ¶ If, in addition to operations of this nature, the Confederate agents in this

*) Dieser interessante Process endete mit der Freisprechung des Capitain Corbett, indem die Jury ihn keiner Verletzung der Foreign Enlistment Act, namentlich nicht der Verleitung Britischer Unterthanen zum Kriegsdienst gegen eine befreundete Macht, schuldig befand.

country superintended or directed other designs involving the violation of our laws, they were careful (as it might be expected they would be) to keep their participation in any such illegal acts as far as possible out of sight. The agency of Captain Bullock for the Confederate Government was, indeed, to some extent disclosed by parts of the evidence relating to ships which were the subject of actual or contemplated proceedings by Her Majesty's Government, but not in such a manner nor to such an extent as to make it probable, in the judgment of Her Majesty's advisers, that if proceedings had been instituted against him personally they would have been attended with a successful result. ¶ You refer, indeed, to the recent transmission, under the orders of Her Majesty's Government, of Captain Bullock's letter to the commander of the Shenandoah, directing him to cease from the further prosecution of hostilities, as proof that Her Majesty's Government have, at least in one instance, considered themselves to be in possession of sufficient evidence of Captain Bullock's authority to control or prevent such hostilities. But it is not clear that proof, even of the extent and kind of authority assumed in that letter, over the Shenandoah when at sea, would have supplied the want of further evidence of any infringement alleged to have been committed by Captain Bullock of the laws of this country. Your surprise, however, on hearing of that circumstance, as well as the inference which you draw from it, of the previous possession of evidence against Captain Bullock by Her Majesty's Government, will, I hope, cease when you learn that this letter was transmitted by Her Majesty's Government in compliance with the request of Mr. Mason (the known accredited agent in Europe of the Confederate States) made to Earl Russell in a letter dated the 20th of June last, after the conclusion of the war. ¶ Whatever might have been the extent of the previous knowledge or ignorance of Her Majesty's Government with respect to the acts of Captain Bullock, they were entitled to believe, on Mr. Mason's authority, that the letter sent by him for transmission would be effectual for its intended purpose; in which, being a purpose of humanity, especially beneficial to the United States, Her Majesty's Government felt they might safely endeavour so far to cooperate without any risk of being misunderstood by the United States' Government. ¶ I am, etc.

To Mr. Adams. *Clarendon.*

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VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Königl. Grossbrit. Min. d. Ausw. — Nochmalige theoretische Begründung des Standpunktes des Cabinets von Washington in Antwort auf No. 1981. —

Legation of the United States, London, Nov. 18, 1865.

My Lord, — I have the honour to acknowledge the reception of a note from your predecessor, the Right Hon. Earl Russell, dated the 2d inst., in reply to one which I addressed to him on the 18th of September last, on certain important questions now under consideration between Her Majesty's Govern-

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ment and that which I have the honour to represent. ¶ It is with the most profound regret that I am thus compelled to open my relations with your Lordship in a spirit of controversy. I can only urge in extenuation of this proceeding the great importance of the subjects under consideration—not simply as between two countries, but from their wider bearing on the future relations of all the civilized nations on the globe. Furthermore, I flatter myself that, from the contraction necessarily going on of the topics under treatment, we may, before long, arrive at some sort of termination of a discussion already on my part, I fear, rather tediously protracted. ¶ His Lordship's note appears to be substantially confined to the consideration of two classes of facts, both of them bearing upon the establishment of one general principle of the law of nations—to wit, the obligation of a neutral country to belligerents to do everything within its power to maintain its neutrality inviolate. This obligation his Lordship appears to maintain to be fully acquitted by the adoption of such measures as the neutral itself may judge sufficient without regard to any renonstrances of the belligerent. And without entering into argument on the abstract question, he contents himself with vouching in the conduct of the United States in past cases in full justification of the course taken by Great Britain, and complained of by the United States in the progress of the late war. The chief of the cases relied upon by his Lordship is that in regard to certain claims for indemnity for injuries done to the commerce of Portugal by vessels illegally fitted out in the United States. ¶ In order to define the nature of the question thus raised, it would seem to be proper first to note how far his Lordship and I are agreed. After which it may be made more clearly to appear wherein we are so unfortunate as to differ. ¶ But consenting to cite the language and the action of the United States' Government in the Portuguese case so freely as his Lordship does as a precedent to justify the later course of Her Majesty's Government now drawn into question, it is obvious that he must have given to them the high sanction of his approbation. ¶ On my side, I have already, in a preceding note, expressed it as my opinion that the grounds taken in that case by my Government were impregnable. ¶ It necessarily follows that on this point we are fully agreed. Where there is no difference it is obviously superfluous to continue an argument. ¶ Here I would beg permission to observe that in all the previous examination of this topic I have carefully abstained from the task of affirming that a neutral Power is absolutely responsible for the injurious consequences of any and every violation of neutrality that may originate within its territorial limits, without regard to the circumstances attending each case. The proposition which I have affirmed, and still do continue to insist upon, is, that a neutral is responsible for all injuries which may so ensue to a friendly nation when it fails to exercise all the means in its power for prevention, and constitutes itself the sole judge of the extent to which it will refuse to resort to stronger ones within its reach, when the old ones are proved by the injured party to have been wholly inadequate to the emergency. ¶ With the light shed by this explanation, I now propose very briefly to set forth those points in the respective action of the United States towards Portugal and of Great Britain towards the United States, wherein they

appear to me to differ so essentially and radically as to make it impossible to bring them within a reasonable parallel.

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1. The United States did not recognize the insurgents in South America as a belligerent until the fact of the presence of their armed vessels was made patent to them on the ocean. But Great Britain did erect the insurgents in the United States into a belligerent before they showed a vessel on the sea, before they organized an army on land, and before they had done a thing but declare an intention to do what they never subsequently executed.

2. Upon the first notice given to the Government of the United States that the neutrality of their ports was violated by South American insurgents making outfits in connexion with their own citizens, they immediately put in force the provisions of the existing law; prosecutions were instituted against the foreign agents, as well as citizens; and decrees of restitution were obtained from the judicial tribunals in the cases of captured property. In other words, nothing was left undone that energy could do to bring to bear existing preventive legislation against these offenders. ¶ One particular instance of the desire to perform these obligations is worthy to be presented to your notice, more particularly inasmuch as it incidentally explains as well the public sense of the extent of the obligation of a neutral Power in similar cases, as of the responsibility entailed from an insufficient performance of it. ¶ It appears that some of the insurgent emissaries, in conjunction with desperate adventurers of the United States, went to the extent of seizing and occupying two different spots on the American coast, neither of them within the recognized jurisdiction of the Union, nor yet within that of any responsible Power. Here they made bases from which to conduct their hostile operations against the commerce of Spain and Portugal, very much in the manner, but not nearly with so much success, as Liverpool in this kingdom and the port of Nassau were made basis of, against the commerce of the United States, by insurgent emissaries during the late war. These proceedings soon attracted the attention of the President, who dwelt upon the necessity of adopting prompt measures of prevention in his annual recommendations to Congress in the year 1817. The matter was referred in course to the consideration of a Committee of the House of Representatives, which made a report recommending that these establishments should be at once suppressed by force, if necessary. ¶ Among the reasons given for resorting to this summary proceeding are the following, to which I ask a moment of your Lordship's attention: — "The immediate tendency of suffering such armaments, in defiance of our laws, would have been to embroil the United States with all the nations whose commerce with our country was suffering under these depredations; and if not checked by all the means in the power of the Government, would have authorized claims from the subjects of foreign Governments for indemnities at the expense of this nation, for captures by our people in vessels fitted out in our ports, and, as could not fail of being alleged, countenanced by the very neglect of the necessary means of suppressing them." ¶ It would be difficult to express in more forcible language the principle established by the law of nations than is done in these sentences. The action recommended was, moreover, performed so promptly,

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that soon afterwards the President, in a special Message, was enabled to announce that the piratical establishments at Amelia Island and at Galveston had been suppressed. The paramount necessity had been thought to justify the exercise of power even over territory not within the national jurisdiction. ¶ But when I turn my attention to the proceedings of Her Majesty's Government as they are noted in the dreary list of my representations and complaints contained in the printed Memorandum furnished to me with his Lordship's note of the 2d inst.; when I perceive real justice to have been so seldom done and so often defeated, however good the intentions may have been; when I note the omission of all reference to the endless remonstrances made by myself against the establishment of a naval bureau in Liverpool, conducted by insurgents mentioned and particularized by name; because not a single step was ever taken either to prevent their action or to punish them, I cannot but be sensible of a difference in the preventive action of the two countries in similar circumstances, which would ever forbid me from classing them together in one connection for a single moment.

3. It is not, however, denied that, in the one case as in the other, several cases of illegal outfits took place which the existing laws proved inefficient to prevent or punish. ¶ In that of the United States the representative of the aggrieved Power made at once a direct appeal to the Government, stating the cause of the difficulty, and soliciting a new movement for the purpose of obtaining from the requisite source stronger powers of prevention; to which that Government immediately responded by recognizing the justice of the complaint, and at once adopting the suggestion. ¶ If Her Majesty's Government has at any time in this struggle followed that example it has escaped my observation. I should be glad to be corrected when I affirm that it has done the directly opposite thing. ¶ Here I may be permitted for a moment to refer to a passage of his Lordship's note, which appears to have been called out by a hypothetical description I ventured to give of the consequences that might ensue to the world if neutral nations constituted themselves the sole judges of the degree in which they had done their duty under a code of their own making. To this phrase his Lordship is pleased to retort as follows:— "Yet, as far as I can judge, your Secretaries of State always maintained that the United States, as a neutral Power, were the sole judges of the degree in which it had done its duty under a code of its own making." ¶ To which I would beg permission to observe that his lordship can scarcely presume me to maintain that, in the literal sense, my country does not make its own code of laws. What I did mean to do, was to distinguish by this term a country which was ready to accept suggestions from foreign Powers, for an improvement of a code designed to give them the protection they are entitled to by treaties as well as international law, from one which determined to abide by its own system without regard to external representations. By keeping in mind this distinction, in connection with the fact already stated of the action of my Government, it will then appear that his Lordship is in error when he declares that "our Secretaries of State" (meaning those of the United States) "made themselves the sole judges of the degree in which the coun-

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try had done its duty under a code of their own making." So far was this from being true that they admitted that the country had not done its full duty, and they proceeded to amend the code at the suggestion of a foreign Power that claimed to be aggrieved. Hence it is that the "code" was "not of their own making." ¶ If there be a shadow of doubt left on this point I will proceed to disperse it by the following extracts. ¶ On the 20th of December, 1816, M. Correa de Serra addresses these words to the Secretary of State: — "I apply, therefore, to this Government, in the present instance, not to raise altercations, or to require satisfaction which the Constitution of the United States has not perhaps enabled them to give, but because I know that the supreme Executive of his nation, all-powerful when supported by law, is constitutionally inactive when unsupported by law. What I solicit of him is the proposition to Congress of such provisions by law as will prevent such attempts for the future." ¶ To which application Mr. Monroe, then Secretary of State, replies as follows on the 27th of December, 1816: — "I have communicated your letter to the President, and have now the honour to transmit to you a copy of a Message which he has addressed to Congress on the subject, with a view to obtain such an extension, by law, of the executive power, as will be necessary to preserve the strict neutrality of the United States in the existing war between Spain and the Spanish Colonies, and effectually to guard against the danger in regard to the vessels of your Sovereign which you have anticipated." ¶ And on the 13th of March Mr. Rush, then Acting Secretary, writes to him as follows: — "The Act of Congress passed on the 3d of this month, to preserve more effectually the neutral relations of the United States, being upon the subject brought under consideration in your letter to this department of the 20th of December last, I have the honour, by direction of the President, to transmit for your information the inclosed copy of it. The President feels sure that your Sovereign will perceive in the spirit and scope of its provisions a distinguished proof of the desire which animates this nation to maintain with his dominions and subjects the most harmonious relations." ¶ But when I turn to the other side of the picture, and view the action which Her Majesty's Government has thought it proper to take in answer to similar representations made by me on behalf of my Government; when I observe that the appeals to the existing law have been almost uniformly of a kind to prove its utter inefficacy; and when, upon my making representations as to the expediency of further legislation to enlarge the powers of the Government to an extent adequate to the emergency, I find that proposal positively declined, it seems to me that here again the parallel sought to be made utterly fails. ¶ I would respectfully ask whether, in the correspondence just laid before your Lordship, there be any language similar to that which his Lordship, in one of the notes which he did me the honour to address me, used to me: — "Surely we are not bound to go on making new laws *ad infinitum* because new occasions arise." ¶ Here I would respectfully submit that if his Lordship be right in his assertion that new laws *ad infinitum* are not required by new occasions, it is difficult to explain the reason for the existence of so many legislative bodies and such multiplied statute-books. Surely the Government which I

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represent would not have so repeatedly acceded to the solicitations of Her Majesty's Government as it has done, to "make new laws for new occasions," under any other plea. ¶ But I am in candour bound to observe that, even in this doctrine, there has been during the late struggle a singular variation in the practice of Her Majesty's Government, which I ask your Lordship's permission to point out. ¶ At a very early date the exposed nature of the frontier bordering upon Canada became so much a subject of anxiety to my Government that I was instructed to bring the matter to the attention of his Lordship, with a view to the establishment of more effective preventive measures on the Canadian side than were thought to be then within reach. To that end, in the early part of December, 1863, in a conversation which I had the honour to hold with his Lordship, after explaining the reasons of my Government for the danger apprehended in this quarter, I proceeded to propose the adoption of a form of law on the part of Canada resembling that which had been enacted on our part in 1838 to meet a similar emergency then happening there. It is true that for a considerable period I had no reason to presume that this proposal had been more favourably received than any other of the same kind I had been called to make. But when, one year later, information was received of the extreme peril into which Canada had been thrown by the violent enterprise executed by some of the insurgents established in that province upon the peaceful town of St. Alban's, I then had the satisfaction of learning from his Lordship that the suggestion had been adopted so far as that Her Majesty's Government had recommended to the authorities of Canada to procure the enactment of the suggested law. ¶ In this case, then, it is clear that the imminent danger of a rupture between the two countries had brought on an acknowledgment of the necessity of going on to "make a new law to meet a new occasion." But surely Her Majesty's Government would not be willing to give even a colour to an inference that nothing but a necessity to avoid a war would be a sufficient motive to induce it to recognize an obligation to make a new law. If the reasons for the suggestion were equally valid in all cases, I fail to perceive upon what principle the nature of the answer should be made to depend upon the merely accidental pressure of the circumstances attending the moment it was made. ¶ Without pressing this topic further, I would then beg to observe that in any event, however the facts attending the Portuguese claim as now explained may be viewed, one thing is indisputable, and that is that there is a wide divergency in the nature of the two cases sought to be brought together. It is plain that neither in the commencement, nor in the proceedings under the existing laws, nor yet in the mode of treating the suggestion of new legislation, was there any resemblance whatever in the tone or the action of the respective Governments. Hence I am constrained to arrive at the conclusion that, whatever may be thought of the conduct of the Government of the United States in its relations towards Portugal, there is no parallel to it in that of Great Britain towards the United States, by which the latter may be tested in the way of justification. Considered as a precedent, for which alone the case seems to have been quoted by his Lordship, I must insist that the evidence entirely fails to establish its authority. ¶ On a general review

of these marked differences, considered in the light of the rule of international law laid down at the outset of this letter, it may now be said that one Government appears to have done all that it was reasonably asked to do, and that it could do, to preserve its neutrality, while the other certainly could have done more, but deliberately refused, and accepted the responsibility of that refusal. ¶ Hence, I must respectfully submit that before his Lordship concludes to adopt the language used by the United States in answer to Portugal, he should be prepared with proof to show that he has likewise adopted the action on which they based it.

I should here gladly close my portion of this long controversy if it were not that his Lordship has, in his note to which I now have the honour to reply, thought fit to open a new matter which I cannot decline to notice. ¶ It has happened in the course of this extended discussion that he has, on more than one occasion, deigned to give me the fruits of his examination of various points of history in my own country. In the first instance, his Lordship was pleased to apprize me that Spain had never received any compensation for the claims of her citizens against the United States. By the aid of a little light I think I succeeded in dispersing that illusion, so that it has not been made to appear again. Again, his Lordship was pleased to inform me that the Enlistment Acts of the respective countries were in their main provisions similar and co-extensive. Here I respectfully pointed out to his attention the fact that certain important provisions were contained in the one that were not to be found in the other; provisions which we, at least, regarded as having proved in practice the most efficient in the whole law. ¶ His Lordship, in the note to which I am now replying, has been kind enough to take notice of this difference, and goes on to describe the nature of the provisions he had overlooked; but it appears to be only for the purpose of trying to convince me that in my statement of their superior efficacy I am utterly wrong. Hence, the argument appears to follow somewhat after this fashion: his Lordship having proved to his satisfaction that those provisions of the law which Her Majesty's Government did not adopt were as susceptible of evasion as all the others which it did adopt, it must necessarily follow that Her Majesty's Government were fully justified in declining a proposal to make any amendment whatever of its existing statute. ¶ To which I would respectfully venture to reply that, even had the result proved to be as supposed, yet the position of Her Majesty's Government, if it had consented to make the experiment, would have been, at least to my eye, infinitely stronger than it is now. It might then have replied to all complaints, as the United States replied to Portugal, that everything in its power had been done, even to the extent desired by the complaining party. Whereas, by a refusal to recognize the justice of the request, it appears to have placed itself in the attitude of a party deliberately assuming the responsibility of declining to use those powers legitimately within its reach wherewith to fulfil its most imperative obligations. ¶ But I am constrained to go further, and affirm that I can by no means subscribe to the opinion which his Lordship is pleased to express as to the ineffective nature of the provisions of the law to which he has referred. It is not without extreme

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surprise that I find him use the precise language respecting it which I beg permission here to quote: — "Now, I contend, first, that for ten years these provisions proved utterly inefficacious to prevent the fitting out of privateers at Baltimore, as shown by the fact that the complaints of the Portuguese Ministers of captures and plundering by American privateers were more frequent and extended to a large amount of property after 1818 than they had done from 1816 to 1818." ¶ It is difficult for me to describe the high degree of astonishment with which I have read these lines. ¶ In opposition to this grave affirmation of facts, which I must beg leave to observe no attempt is made to sustain by any distinct evidence. I am driven to take the liberty to affirm on my own side, first, that there is not a tittle of specification to show that the fitting out of privateers continued in any appreciable sense for ten years after the year 1818; and, secondly, that no pretence of that kind is to be found in any of the official remonstrances of the representatives of Portugal to which I have had access, with one single exception, which I propose presently to notice. ¶ In relation to the point of the efficiency of the law, I shall venture, in opposition to his Lordship's reasoning as to what it might be, to confront that which, in the mind of M. Correa de Serra, the person through whom all the transactions passed during much the largest part of the period in question, and who had every opportunity to be familiar with them, it really was. ¶ On the 4th of February, 1819, about two years after it had gone into operation, he deliberately used the following language: — "This law, so honourable to the spirit of justice of the Government that enacted it, has also been found in practice the most useful of the laws existing on this subject. Unhappily the continuance and recent aggravations of the evil it was intended to remedy seem to render it necessary that this law may still continue in force for some time. I apply, therefore, to this Government in order to obtain the continuance of this law, so necessary to the peaceful trade of the subjects of my Sovereign, and so honourable to the character of the United States, perfectly confident that my request is according to the just and friendly intentions of the Chief Magistrate and legislators of the Union, and conducive to the consolidation of good harmony between my Sovereign and the United States." ¶ On the 4th of June, 1820, he again writes to the Secretary of State as follows, thanking him for still more effective legislation: — "Permit me, Sir, to profit of this occasion to offer my thanks to this Government for the law that prohibits the entrance of privateers in the most important ports of the Union, and for the other that declares piracy the landing and committing outrages ashore in foreign lands. I acknowledge the salutary influence of the Executive in obtaining these ameliorations." ¶ Notwithstanding the very great deference with which it is my desire, as well as my habit, to bow to the judgment of his Lordship, if I find myself so unfortunate as to be constrained to express an humble opinion in this case of conflicting authority, I cannot in candour disguise my conviction that the correct view is most likely to be that of M. Correa de Serra. ¶ But, however efficient this law may have been found to be by M. Correa de Serra at so late a date as the 4th of June, 1820, it is now gravely affirmed that it so wholly lost its efficacy for the ten years following

that more property was captured after 1818 than before, and the complaints of the Portuguese Minister for these captures and plundering were more frequent than ever. ¶ The natural corollary, should this statement be sustained, would be that, assuming the exertions of the Government to have continued the same, instead of improving the efficacy of the old law, the addition of the new provisions must have only made it more worthless than it was before, upon which logic might doubtless be based a very good justification to Her Majesty's Government for declining to try further legislation altogether. But, unfortunately, the whole argument falls to the ground when its base disappears. It is not denied that some outfits escaped from Baltimore after the year 1818. But it is denied that the complaints made for captures after that time bore any fair proportion to those made before. It never has been pretended that any law could be made so perfect, or any vigilance could be so complete, as to put an end to the efforts of profligate and desperate men. The grave error into which his Lordship has fallen appears to have originated in an *ex parte* letter written by a Minister from Portugal at Washington 30 years after the date of the events, in which letter and the caption of a list embracing the names of vessels captured, he includes them vaguely within two distant dates of 1816 and 1828. It is, however, remarkable that in the letter itself, containing his own recapitulation of the facts, no date of a capture is given later than 1820. By turning to the original representations made by his predecessors the same fact distinctly appears. I have carefully examined those representations to trace the dates of the claims embraced in that list, and find much the greater proportion included within the period of residence of M. Correa de Serra ending in that year. So also of the gross amount of value assigned in 1850 as an indemnity for all the damage done during the entire period, which is less than 300,000 L., I find a great proportion embraced in an early and more trustworthy representation made by the same person. ¶ Such being the facts, I submit whether, with such small support as can be given by this wholly *ex parte* and vague averment, his Lordship has not a little crossed the verge of international courtesy, by venturing, without any personal experience whatever of American legislation, and in the face of the statement of M. Correa de Serra, which he must have read, to hazard an assertion, and, still more, give rise to an impression like that necessarily produced by the language already quoted. Standing as I do, the defender of the law of my country, it is with regret I am compelled to protest against it as wholly unsubstantiated by any facts adduced, and in every essential particular incorrect. ¶ Neither were those the only cases in which the efficacy of these provisions of law have been fully tested. It is not a very long time since I had the honour of calling the attention of Her Majesty's Government to an instance of the remarkable promptness with which action was had under them upon a request made by the representative of Her Majesty's Government at Washington. When Mr. Crampton, on the 11th of October, 1855, directed the attention of my Government to the character of a vessel in New-York, then believed by him to be fitting out as a privateer, it was by virtue of the authority vested in it by one of the sections of this law that she was seized on the 19th

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of the same month and taken possession of by the officers of the law in such a manner as to prevent all possibility of escape. It required but four days to prosecute the investigation before Her Majesty's representative was led to declare his satisfaction with the result to which it had reached, and desired the process to be stopped. When I compare the celerity of this effective proceeding with the feeble nature of the process that ended in the escape of the Alabama, in defiance of the British authority, while I give due credit to Her Majesty's Government for good intentions, it seems difficult to assent to the view which his Lordship has been pleased to take of the slight difference in the inefficacy of the legislation of the respective nations. In any event, I cannot but think that future harmony would have been much more certainly secured by a consent to try the experiment in season than by an endeavour, after great injury has been done, to prove that it might not, under any circumstances, have been averted. ¶ But it would appear superfluous to pursue this investigation further in the view of the fact that whether these provisions of the American law were or were not effective, it never was any part of my instructions to urge the adoption upon Her Majesty's Government. I was instructed only to suggest the expediency of having recourse to such additional measures as it might think proper to choose to the end of making the laws of Great Britain more effective. And it was in that form only that Her Majesty's Government decided to decline the proposal. The decision was not against the adoption of the law of the United States. It was against doing anything at all. ¶ Neither in presenting the argument which I have been called to do, in the course of my duty here can I for a moment permit an implication that my Government has either "made a demand which aims at the diminution of British freedom, or which assumes, without warrant from any previously recognized authority or practice, the existence of an extent of obligation on the part of neutrals towards belligerents, going beyond any which the Government of a free country could have power, though acting with entire good faith, punctually to fulfil." ¶ I feel very sure that my country is quite as jealous of the preservation of the true principles of freedom as Great Britain is, or ever has been, and, further, I fully believe that neither Government would consent to give to the term that latitude which would encourage the power of doing wrong with perfect impunity. ¶ The suggestion which his Lordship has been pleased to make towards the close of his note of improvements in the statutes of both nations, to the end that greater security may be given to the respective nations against those who endeavour to evade its laws, though it appears to me to be in substance little more than it has been the object of my Government from the outset of the war to obtain, is yet one which I cannot but receive with great respect, and which I shall transmit to my Government with pleasure. If the reasons for it are sound now, I am at a loss to perceive why they did not avail during a period when my country could have felt the benefit of them. I trust that I need not repeat how much pain it has given me heretofore to witness the evil consequences that ensue from the alienation of sentiment that has grown out of this struggle between people of the same race, and how cheerfully I welcome every appearance of a desire to bring

them back to harmony. Yet, with regard to the proposition immediately before me, I cannot forbear to observe that it is predicated upon an assumption that the legislation of the two countries is now equally inefficacious — which I cannot entertain for a moment. On the contrary, the necessity for some action in future seems to me to be inoperative, because that legislation as it now stands is not co-extensive. ¶ For it is hardly possible for me to imagine that the people of the United States, after the experience they have had of injuries from the imperfection of British legislation, and a refusal to amend it, would be ready cheerfully to respond to another appeal like that made in 1855 by Her Majesty's Representative to the more stringent and effective protection extended to their own. The great preservative of harmony between nations is the full recognition of reciprocity in their obligations. So lang as the heavy list of depredations upon American commerce, consequent upon the issue of a succession of hostile cruisers, built, fitted out, armed, manned, and navigated from British ports with perfect impunity, continues to weigh upon their minds, it would be the height of assurance in me to hold out any encouragement to the acceptance of proposals the practical consequence of which might be to place Great Britain in precisely the same degree of security in dangerous emergencies which she herself, when applied to, had deliberately refused to accord to them. ¶ In regard to the parting words of his Lordship's note, I have already too often had occasion to express the sentiments of my Government to leave any doubt of the sense in which I accept them. ¶ In the performance of a duty which has been too often painful, while his Lordship has been officially the person to whom it has been my lot to address my representations, I have been steadily cheered by the conviction that he was substantially animated by the feeling that prompted those lines. I have the greatest pleasure in believing that, in assuming the duties of his post under his auspices, my country may rest satisfied that the accession of your Lordship has brought about no unfavourable change. ¶ I pray, etc. *Charles Francis Adams.*

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To the **Earl Clarendon.**

No. 2042.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Anzeige von dem Empfang der beiden letzten Englischen Noten. —

Legation of the United States, London, Nov. 21, 1865.

My Lord, — I have the honour to acknowledge the reception of two notes from your Lordship, one of the 17th inst.,*) the other of the 18th inst.**), both of them relating to the case of the vessel heretofore known as the Shenandoah. ¶ The arguments presented in these notes appear to me substantially so much the same as have been urged in the correspondence I have heretofore had

No. 2042. Vereinigte Staaten, 21. Nov. 1865.

*) No. 2038.

**) No. 2040.

No. 2042. Vereinigte Staaten, 21. Nov. 1865.

the honour to conduct with your predecessor that I deem it unnecessary, on my own responsibility, further to enlarge upon the opposite views already submitted. Regretting that the result has been to bring us no nearer to any agreement in our respective convictions, I shall content myself with transmitting copies of your Lordship's notes, for the consideration of my Government, and awaiting specific instructions. ¶ I pray, &c.

Charles Francis Adams.

To the **Earl Clarendon.**

No. 2043.

VEREINIGTE STAATEN von AMERIKA. — Ges. in London an den Kön. Grossbrit. Min. d. Ausw. — Ablehnung der Seitens Englands vorgeschlagenen Untersuchungscommission. —

Legation of the United States, London, Nov. 21, 1865.

No. 2043. Vereinigte Staaten, 21. Nov. 1865.

My Lord, — I have the honour to inform your Lordship that the notes elicited by the proposal for a Commission to consider certain classes of claims growing out of the late difficulties in the United States, made by your predecessor, the Right Hon. Earl Russell, in his letter addressed to me on the 30th of August last*), have received the careful consideration of my Government. ¶ Adhering, as my Government does, to the opinion that the claims it has presented, which his Lordship has thought fit, at the outset, to exclude from consideration, are just and reasonable, I am instructed to say that it sees now no occasion for further delay in giving a full answer to his Lordship's proposition. ¶ I am directed, therefore, to inform your Lordship that the proposition of Her Majesty's Government for the creating of a joint commission is respectfully declined. ¶ I pray your Lordship to accept the assurances of the highest consideration with which I have, &c.

Charles Francis Adams.

To the **Earl Clarendon.**

No. 2044.

GROSSBRITANNIEN. — Min. d. Ausw. an den Ges. der Ver. Staaten in London. — Ablehnung weiterer Erörterung der Streitfrage. —

Foreign-Office, Dec. 2, 1865.

No. 2044. Grossbritannien, 2. Dec. 1865.

Sir, — I have to acknowledge the receipt of your letter of the 18th ult., having reference to the letter which my predecessor addressed to you on the 3d ult. ¶ There are many statements in your letter which I should be prepared to controvert if it were not that Her Majesty's Government consider that no advantage can result from prolonging the controversy, of which the topics are generally exhausted, but which might possibly, if continued, introduce acri-

*) No. 1977.

mony into the relations between this country and the United States; two nations who from kindred, origin, and mutual interest should desire to be knit together by bonds of the closest friendship. Such a desire is strongly felt by the Government and people of this country, and Her Majesty's Government do not doubt that it is shared by the Government and people of the United States. ¶ While abstaining, therefore, from any discussion of the passages in your letter to the correctness of which I am unable to subscribe, it is nevertheless my duty in closing this correspondence to observe that no armed vessel departed during the war from a British port to cruise against the commerce of the United States, and to maintain that throughout all the difficulties of the civil war by which the United States have lately been distracted, but in the termination of which no nation rejoices more cordially than Great Britain, the British Government have steadily and honestly discharged all the duties incumbent on them as a neutral Power, and have never deviated from the obligations imposed on them by international law. ¶ I am, &c.

No. 2044. Gross-britannien, 2. Dec. 1865.

Clarendon.

To Mr. **Adams.**

No, 2045.

ÖSTERREICH und **GROSSBRITANNIEN.** — Handelsvertrag vom 16. December 1865, ratificirt zu Wien am 4. Januar 1866*). —

No. 2045. Oesterreich und Gross-britannien, 16. Dec. 1865.

Seine Majestät der Kaiser von Oesterreich, König von Ungarn und Böhmen, einerseits, und Ihre Majestät die Königin des Vereinigten Königreiches Grossbritannien und Irland, andererseits, — — haben — —

Art. I. Während der Dauer des gegenwärtigen Vertrages werden die Unterthanen und der Handel Oesterreichs innerhalb aller Gebiete und Besitzungen einschliesslich der Colonieen und auswärtigen Besitzungen Ihrer Britischen Majestät dieselben Vortheile geniessen, welche den Unterthanen und dem Handel Frankreichs durch den zu Paris am 23. Januar 1860 unterzeichneten Vertrag zwischen Ihrer Majestät und dem Kaiser der Franzosen, den Unterthanen und dem Handel der Zollvereinsstaaten durch den in Berlin am 30. Mai 1865 zwischen Ihrer Majestät und dem Könige von Preussen, als Vertreter der dem Preussischen Zoll- und Steuer-Systeme beigetretenen souverainen Staaten und Gebiete, zugestanden worden sind, und es werden ferner die Unterthanen und der Handel Oesterreichs in allen übrigen Beziehungen auf gleichen Fuss mit den Unterthanen und dem Handel der meist begünstigten Nationen gesetzt.

Art. II. Von und nach dem 1. Januar 1867 sollen Britische Unterthanen und Handel in den Staaten Sr. Kaiserlich Königlichen Majestät in allen Beziehungen auf den Fuss der meistbegünstigten Nation gesetzt werden und sollen denselben alle Vortheile und Begünstigungen zu Theil werden, welche dem

*) Der Englische Text des Vertrags und des dazu gehörigen Schlussprotokolles, unterzeichnet von Lord Bloomfield, dem Englischen Botschafter in Wien, ist veröffentlicht in der Gazette vom 9. Januar 1866.

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Handel und den Unterthanen irgend einer dritten Macht zukommen. Ausgenommen hiervon sind: a) Solche Begünstigungen, welche lediglich zur Erleichterung des Grenzverkehrs den Staaten des Deutschen Zollvereins oder anderen Nachbarstaaten gegenwärtig zugestanden sind oder künftig zugestanden werden könnten, so wie jene Zollermässigungen oder Zollbefreiungen, welche nur für gewisse Grenzen oder für die Bewohner einzelner Besitztheile Geltung haben. b) Jene Begünstigungen, welche den Unterthanen der Deutschen Bundesstaaten kraft der Bundesverträge und Bundesgesetze zustehen oder künftig eingeräumt werden sollten. c) Jene besonderen althergebrachten Begünstigungen, welche den Türkischen Unterthanen als solche für den Türkischen Handel in Oesterreich zukommen.

Art. III. Der Oesterreichische Zolltarif soll unter Aufrechthaltung seines gegenwärtigen Gewichts-Zollsystems mit der Massgabe geregelt werden, dass der von Artikeln der Urproduction oder der Industrie der Staaten Ihrer Britischen Majestät bei deren Einfuhr in die Oesterreichischen Staaten zu erhebende Zoll vom 1. Januar 1867 angefangen 25 pCt. des Werthes mit Zuschlag der Transports-, Versicherungs- und Commissions-Spesen, welche die Einfuhr nach Oesterreich bis zur Oesterreichischen Zollgrenze erfordert, nicht übersteige, und es soll dabei der durchschnittliche Werth der in jeder Position des künftigen Oesterreichischen Tarifes unter einer und derselben Benennung vorkommenden Artikel zur Grundlage genommen werden. Von und nach dem 1. Januar 1870 soll das Maximum dieser Zölle 20 pCt. des Werthes sammt Zuschlag nicht übersteigen. Ausgenommen von diesen Maximalsätzen sind die Gegenstände der Staats-Monopolien (Tabak, Kochsalz, Schiesspulver), ferner die in den Classen I bis VII des gegenwärtigen Oesterreichischen Tarifs enthaltenen Waaren.

Art. IV. Zur Ermittelung und Feststellung der Werthe und des Zuschlages sollen längstens im Monate März 1865 Commissarien der beiderseitigen Regierungen zusammentreten und es sollen dabei die Durchschnittspreise der Hauptstapelplätze des Vereinigten Königreiches des Jahres 1865 zur Basis dienen. Jeder der contrahirenden Theile soll das Recht haben, drei Jahre nachdem die vertragsmässig festgesetzten Zölle in Kraft getreten sein werden, eine Revision der Werthe zu verlangen.

Art. V. Diejenigen Zollsätze des künftigen am 1. Januar 1867 in Wirksamkeit tretenden Oesterreichischen Zolltarifs, an welchen England ein besonderes Interesse hat, sollen den Gegenstand einer zwischen den beiden contrahirenden Theilen abzuschliessenden Nachtragsconvention bilden. Die Gegenstände der Staatsmonopole, so wie die mit Finanzzöllen belegten Waaren der Classen I und VII des gegenwärtigen Zolltarifs bleiben auch hier ausgenommen.

Art. VI. Innere Abgaben, welche in dem einen der contrahirenden Theile, sei es für Rechnung des Staates oder für Rechnung von Communen und Corporationen, auf der Hervorbringung, der Zubereitung oder dem Verbrauche eines Erzeugnisses lasten, dürfen Erzeugnisse des anderen Theiles unter keinem Vorwande höher oder in lästigerer Weise treffen, als die gleichnamigen Erzeugnisse des eigenen Landes.

Art. VII. Die contrahirenden Mächte kommen überein, dass jede Er-

mässigung ihres Ein- oder Ausfuhrzoll-Tarifes, so wie jedes Privilegium, jede Begünstigung oder Befreiung, welche einer der vertragschliessenden Theile den Unterthanen und dem Handel einer dritten Macht zugestehen würde, gleichzeitig und unbedingt dem andern Theile zukommen soll, vorbehaltlich der im Art. II unter a und b bezeichneten Ausnahmen.

Art. VIII. Die Unterthanen des einen der vertragschliessenden Theile sollen in den Staaten und Besitzungen des anderen gleichmässige Behandlung mit den eingeborenen Unterthanen in Beziehung auf Ein- und Ausladungsgebühren, Einlagerung, Transithandel und eben so in Beziehung auf Ausfuhrprämien, Erleichterungen und Rückzölle geniessen.

Art. IX. Die Unterthanen der einen der beiden vertragschliessenden Mächte sollen in den Gebieten der anderen hinsichtlich des Eigenthumsrechtes an gewerblichen Marke und anderen Bezeichnungen, so wie an Mustern und Modellen für Industrie-Erzeugnisse den gleichen Schutz geniessen, wie die eigenen Unterthanen.

Art. X. Die contrahirenden Mächte behalten sich vor, nachträglich durch eine besondere Uebereinkunft die Mittel zu bestimmen, um den Autorsrechten an Werken der Literatur und der schönen Künste innerhalb ihrer Gebiete den gegenseitigen Schutz angedeihen zu lassen.

Art. XI. Der gegenwärtige Vertrag soll für den Zeitraum von zehn Jahren — vom 1. Januar 1867 an — in Kraft bleiben und falls keine der hohen contrahirenden Mächte zwölf Monate vor Ablauf des besagten Zeitraumes von zehn Jahren der anderen die Absicht kund gegeben haben wird, die Wirksamkeit des Vertrages aufhören zu lassen, soll derselbe für ein weiteres Jahr in Kraft bleiben und sofort von Jahr zu Jahr bis zum Ablaufe eines Jahres von dem Tage an gerechnet, an welchem die eine oder andere der hohen contrahirenden Mächte ihre Absicht angekündigt haben wird, denselben aufhören zu lassen. Die hohen vertragschliessenden Theile behalten sich das Recht vor, durch gemeinschaftliches Uebereinkommen an diesem Vertrage jede Modification vorzunehmen, welche mit dem Geiste und den Grundsätzen desselben nicht im Widerspruche stehen und deren Nützlichkeit die Erfahrung dargethan haben wird.

Art. XII. Der gegenwärtige Vertrag soll ratificirt werden und es sollen die Ratifications-Urkunden binnen drei Wochen, oder wenn möglich früher in Wien ausgewechselt werden.

Zu Urkund dessen haben die beiderseitigen Bevollmächtigten denselben unterzeichnet und ihre Siegel beigedrückt. So geschehen zu Wien den sechszehnten December im Jahre des Herrn eintausendachthundertfünfundsechzig.

(L. S.) Alexander Graf *Mensdorff-Pouilly*, F.-M.-L., m. p.

(L. S.) Bernhard Baron *Wüllerstorff*, Contre-Admiral, m. p.

Schlussprotokoll.

Bei der Unterzeichnung des am heutigen Tage zwischen Oesterreich und Grossbritannien abgeschlossenen Handelsvertrages haben die beiderseitigen Bevollmächtigten die nachfolgenden Erklärungen niedergelegt:

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I. Die Bevollmächtigten Sr. Majestät des Kaisers von Oesterreich erklärten, dass der heutige abgeschlossene Handelsvertrag auch für das Fürstenthum Liechtenstein Geltung habe in Uebereinstimmung mit Art. XIII des am 23. December 1863 erneuerten Zoll- und Steuervereins-Vertrages zwischen Oesterreich und Liechtenstein, und der Grossbritannische Bevollmächtigte hat diese Erklärung angenommen.

II. Um jedem künftigen Zweifel über die Absicht des Art. III vorzubeugen, haben sich die beiderseitigen Bevollmächtigten über nachstehende Erläuterung geeinigt: Bei der Aufstellung eines Tarifs von specifischen Gewichtszöllen innerhalb bestimmter Werthsätze ist es nothwendig, die Wertheinheit zu bestimmen, auf welche jeder specifische Zoll angewendet werden soll. Man ist darüber einverstanden, dass es bei Annahme der im Art. III festgesetzten Werthgrundlage nicht beabsichtigt wird, von dem allgemeinen Grundsatze des Artikels, nämlich davon abzuweichen, dass alle Artikel der Britischen Production oder Industrie nur mit Zöllen belegt werden sollen, welche gewissen Maximalsätzen ihres Werthes entsprechen, sondern es soll die Nothwendigkeit vermieden werden, für alle Verschiedenheiten jedes Artikels besonders vorzusehen und dadurch kleinliche und unzukömmliche Unterabtheilungen des Tarifs hervorzurufen. Im Hinblicke darauf wird es nothwendig, solche verschiedene Qualitäten und Bezeichnungen desselben Artikels oder ähnlicher Artikel zusammenzufassen, von denen es möglich befunden wird, sie vermöge ihres annähernd gleichen Werthes und ihrer allgemeinen Gleichartigkeit unter eine und dieselbe Benennung in eine Position des Tarifs einzubeziehen. Man ist aber darüber einverstanden, dass bei der Feststellung der Benennungen des künftigen Oesterreichischen Tarifs diese so eingerichtet sein sollen, dass der in jeder Position ausgesetzte Zoll den im Art. III des Vertrages festgesetzten Maximalsatz nach dem durchschnittlichen Werthe jeder für den Handel wichtigen Gattung von Waaren, welche unter einer Benennung in diese Position einbezogen sind, nicht übersteigen soll, ausser, es wäre dies durch gemeinschaftliche Uebereinstimmung für zweckmässig oder nützlich erkannt worden.

III. Zu Art. IV ist man ebenso übereingekommen, dass, wenn erkannt werden sollte, dass die Preise irgend einer Waarengattung durch ausserordentliche Ursachen während der zwölf Monate des Jahres 1865 wesentlich gestört worden sind, die Commissare der beiden Regierungen trachten sollen, eine derartige Werthgrundlage für solche Waarengattungen zu finden, wie sie einem billigen Durchschnittswerthe für folgende Jahre als entsprechend angesehen werden kann. Hinsichtlich der Webe- und Wirkwaaren (deren Preise während des letzten Krieges in den Vereinigten Staaten von Nordamerika wesentlich geändert worden sind) ist man übereingekommen, dass, wenn die Mittelpreise des Jahres 1865 als Werthgrundlagen angenommen werden, jeder der contrahirenden Theile nach dem 1. Januar 1868 eine Revision der Bewerthung derselben verlangen kann.

IV. Der Königl. Grossbritannische Bevollmächtigte erklärte ausserdem: Ihre Britische Majestät verpflichtet Sich, dem Parlamente die Abschaffung der für die Einfuhr von Werk- und Bauholz in das Vereinigte Königreich zu zahlen-

den Zölle und eben so die Ermässigung der für Wein in Flaschen zu zahlenden Zölle auf den Betrag der auf Wein in Gebinden bei der Einfuhr in das Vereinigte Königreich zu entrichtenden Zölle zu empfehlen.

No. 2045. Oesterreich und Gross-britannien, 16. Dec. 1865.

V. Die Kaiserl. Oesterreichischen Bevollmächtigten erklärten ihrerseits: der Zoll auf die Ausfuhr von Hadern aus den Staaten und Besitzungen Sr. Kaiserl. Königl. Majestät soll von und nach dem 1. Juli 1866 auf zwei Gulden per Centner herabgesetzt werden.

Der Zoll auf die Einfuhr von gesalzenen Häringen in die Staaten und Besitzungen Sr. Kaiserl. Königl. Majestät wird, vom 1. Februar 1866 angefangen, auf 50 Kr. per Centner sporco herabgemindert.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten das gegenwärtige Protokoll in doppelter Ausfertigung aufgenommen und dasselbe nach erfolgter Vorlesung vollzogen. Wien, 16. December 1865.

(L. S.) Alexander Graf *Mensdorff-Pouilly*, m. p., F.-M.-L.

(L. S.) Bernhard Baron *Wüllerstorff*, m. p., Contre-Admiral.

No. 2046.

ZOLLVEREIN und **ITALIEN.** — Traité de Commerce.*) —

Sa Majesté le Roi de Prusse, Sa Majesté le Roi de Bavière, Sa Majesté le Roi de Saxe et Son Altesse Royale le Grand-Duc de Bade agissant tant en Leur nom, qu'au nom des autres Membres de l'Association de douanes et de commerce Allemande (*Zollverein*), savoir: — — d'une part et Sa Majesté le Roi d'Italie d'autre part,

No. 2046. Zollverein und Italien, 31. Dec. 1865.

voulant régler les relations commerciales entre les États du Zollverein et l'Italie, ont nommé à cet effet pour Leurs Plénipotentiaires, savoir: — — lesquels après s'être communiqué leurs pleins-pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants.

Art. 1. Les sujets des États du Zollverein en Italie et les sujets de Sa Majesté le Roi d'Italie dans les États du Zollverein, soit qu'ils s'y établissent, soit qu'ils y résident temporairement, y jouiront, relativement à l'exercice du commerce et des industries, des mêmes droits et n'y seront soumis à aucune imposition plus élevée ou autre que les sujets de la nation la plus favorisée sous ces rapports.

Art. 2. Les produits du sol et de l'industrie de l'Italie qui seront importés dans le Zollverein, et les produits du sol et de l'industrie des États du Zollverein qui seront importés en Italie, destinés, soit à la consommation, soit à l'entreposage, soit à la réexportation, soit au transit, seront soumis au même traitement et nommément ne seront passibles de droits ni plus élevés ni autres que les produits de la nation la plus favorisée sous ces rapports.

Art. 3. A l'exportation vers l'Italie il ne sera perçu dans le Zollverein et à l'exportation vers le Zollverein il ne sera perçu en Italie d'autres ni de

*) No. 1997 folg.

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plus hauts droits de sortie qu'à l'exportation des mêmes objets vers le pays le plus favorisé à cet égard.

Art. 4. Les marchandises de toute nature venant de l'un des deux territoires ou y allant, seront réciproquement exemptes dans l'autre de tout droit de transit.

Art. 5. Toute faveur, toute immunité, toute réduction du tarif des droits d'entrée et de sortie que l'une des Hautes Parties Contractantes accordera à une tierce Puissance, sera immédiatement et sans condition étendue à l'autre. ¶ De plus aucune des Parties Contractantes ne soumettra l'autre à une prohibition d'importation ou d'exportation qui ne serait pas appliquée en même temps à toutes les autres nations. ¶ La disposition qui précède sur les prohibitions à la sortie ne déroge point aux obligations que les actes de la Confédération germanique imposent aux États allemands qui composent le Zollverein.

Art. 6. En ce qui concerne les marques ou étiquettes de marchandises ou de leurs emballages, les dessins et marques de fabrique ou de commerce, les sujets de chacun des États contractants jouiront respectivement dans l'autre de la même protection que les nationaux.

Art. 7. Le présent traité entrera en vigueur huit jours après l'échange des ratifications. Toutefois la disposition de l'article 6 ne sera exécutoire que quatre mois après ce terme. ¶ Le présent traité restera en vigueur jusqu'au 30 juin 1875. Dans le cas où aucune des Parties contractantes n'aurait notifié douze mois avant l'échéance de ce terme son intention d'en faire cesser les effets, il demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Parties Contractantes l'aura dénoncé.

Art. 8. Le présent traité sera ratifié et les ratifications en seront échangées à Berlin le plus tôt possible.

En foi de quoi les Plénipotentiaires respectifs l'ont signé et y ont apposé le cachet de leurs armes.

Fait à Berlin, le 31 Décembre 1865.

(L. S.) *Bismarck-Schönhausen.* (L. S.) *C. de Barral.*
(L. S.) *Montgelas.*
(L. S.) *Hohenthal.*
(L. S.) *Türckheim.*

Protocole de clôture.

Les Soussignés se sont réunis aujourd'hui au Ministère des affaires étrangères pour signer le traité de commerce conclu à la date de ce jour entre le Zollverein et l'Italie. ¶ En procédant à la signature, les Soussignés déclarent que les Hautes Parties Contractantes se réservent, après la mise en vigueur du présent traité, d'entrer en négociation au sujet des avantages ultérieurs qu'Elles pourraient juger à propos de s'accorder mutuellement dans l'intérêt du commerce et de l'industrie. ¶ Le Plénipotentiaire d'Italie déclare qu'il est chargé par son

gouvernement de ne pas laisser de doute, que le gouvernement Italien considère l'échange des ratifications comme acte de reconnaissance du Royaume d'Italie. Les autres signataires partagent cet avis. ¶ Le présent traité a été signé en deux exemplaires dont l'un a été remis aux Plénipotentiaires soussignés des États du Zollverein pour être déposé dans les archives de la Prusse, l'autre a été remis au Plénipotentiaire d'Italie.

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Fait à Berlin, le 31 Décembre 1865.

[Unterschriften.]

No. 2047.*)

ÖSTERREICH. — Kaiserliche Thronrede bei Eröffnung des Reichsraths am 14. November 1864. —

No. 2047. Oesterreich, 14. Nov. 1864.

Geehrte Mitglieder Meines Reichsrathes. — Nachdem im Laufe der vorigen Sitzungsperiode die Bedingungen eingetreten sind, unter welchen der Reichsrath kraft seines verfassungsmässigen Rechtes die allen Königreichen und Ländern gemeinsamen Gegenstände der Gesetzgebung zu behandeln vermag, habe Ich ihn zur Ausübung dieser Wirksamkeit als die gesammte Vertretung Meines Reiches einberufen. ¶ Indem Ich seine Session eröffne, begrüsse Ich Sie, Erzherzoge Prinzen Meines Hauses, hochwürdigste, erlauchte und geehrte Herren von beiden Häusern des Reichsrathes. ¶ Es ist Meine Absicht, sobald die Beendigung Ihrer Aufgaben den Schluss dieser Sitzungsperiode herbeigeführt haben wird, den engeren Reichsrath in seine Wirksamkeit treten zu lassen. ¶ Ebenso gebe Ich Mich der Erwartung hin, dass in der östlichen Hälfte Meines Reiches verfassungsmässige Thätigkeit, welche schon in Meinem Grossfürstenthume Siebenbürgen erfreulich waltet, allenthalben aufs Neue werde beginnen können. ¶ Auf dieses Ziel, welches Ich im Interesse jener Königreiche, wie nicht minder des gesammten Reiches in naher Zeit erreicht zu sehen wünsche, sind die ernsten Bemühungen Meiner Regierung gerichtet. ¶ Vertrauen und wahre Einsicht werden zu segensvollem Gelingen führen. ¶ Eine Reihe bedeutsamer Ereignisse für Mein Haus wie für das Reich liegt zwischen dem Schlusse der vorigen Sitzungsperiode und dem heutigen Tage. ¶ Die mit Meiner Zustimmung erfolgte Annahme der Mexicanischen Kaiserkrone von Seite Meines Herrn Bruders des Erzherzogs Ferdinand Maximilian, jetzt Kaisers Maximilian I. von Mexico, hat eine Regelung der hierbei in Betracht kommenden Agnatenrechte nothwendig gemacht. ¶ Zu diesem Ende habe Ich am 9. April dieses Jahres zu Miramar einen Familienpact vollzogen, welchen Meine Regierung Ihnen mitzutheilen beauftragt ist. ¶ Beseelt von dem eifrigen Bestreben, zur Erhaltung und Befestigung des allgemeinen Friedens beizutragen, wünsche Ich Mir Glück zu dem guten Einvernehmen und den freundschaftlichen Beziehungen, welche zwischen Meiner Regierung und den übrigen grossen Mächten Europa's bestehen. ¶ Ich werde nicht aufhören diese Beziehungen sorgfältig zu pflegen und Alles

*) Vergl. Beilage zum Staatsarchiv, 1862, „der Ungarische Verfassungsstreit, urkundlich dargestellt“.

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zu thun, um von Meinem Reiche, welches gegenwärtig mit so wichtigen inneren Aufgaben beschäftigt ist, auswärtige Verwicklungen fern zu halten. ¶ Eine Ursache langjährigen Streites im Norden Deutschlands ist soeben auf die ehrenvollste Weise beseitigt worden. ¶ Die Vertretung Meines Reiches wird mit bewährtem patriotischen Gefühle Meine Befriedigung darüber theilen, dass dem Kriege zwischen den Deutschen Mächten und Dänemark durch den Friedensvertrag, der zu Wien am 30. October unterzeichnet wurde und dessen Ratification binnen wenigen Tagen gewärtigt wird, ein Ziel gesetzt worden ist, welches die Erfüllung auch der höchsten Erwartungen in sich schliesst. ¶ Die Tapferkeit der verbündeten Truppen und der Kriegsmarine Oesterreichs und Preussens hat einen glänzenden Preis erfochten, die weise und gerechte Zurückhaltung der neutralen Mächte das endliche Einverständniss erleichtert. ¶ Die Einigkeit zwischen Mir und Meinem erhabenen Bundesgenossen, dem Könige von Preussen, hat ihren hohen Werth durch denkwürdige Erfolge von Neuem erprobt. ¶ Das gesammte Deutschland aber — Ich zweifle nicht — wird Angesichts der ruhmvollen und glücklichen Lösung der Frage, von der es im Innersten bewegt wurde, jene Eintracht wieder finden, welche für seine eigene Sicherheit und Wohlfahrt, wie für die Ruhe und das Gleichgewicht Europa's eine so mächtige Bürgschaft bildet. ¶ Zu Meinem Bedauern haben die unheilvollen Wirkungen, welche in letzter Zeit die Ereignisse im Königreiche Polen auf die benachbarten Länder Meines Reiches übten, Meiner Regierung die Nothwendigkeit auferlegt, Ausnahmsmassregeln zur Wahrung der inneren Ruhe und zum Schutze der Person und des Eigenthums der friedlichen Bevölkerung über diese Länder zu verhängen. ¶ Sie sind von günstigem Erfolge für die Sicherung dieser gefährdeten Interessen gewesen. ¶ Mit Befriedigung habe Ich wahrgenommen, dass ein Theil dieser Massregeln sich schon dermalen entbehrlich gezeigt hat, und gerne gebe Ich Mich der Erwartung hin, in nicht ferner Zeit sie völlig beseitigt zu sehen. ¶ Ihre besondere Aufmerksamkeit werden die Angelegenheiten der Finanzen Meines Reiches in Anspruch nehmen. ¶ Die ungünstigen Verhältnisse, welche allenthalben den europäischen Geldmarkt beherrschen, konnten nicht ohne hemmende Wirkungen auf die Fortschritte der volkswirthschaftlichen und finanziellen Entwicklung Oesterreichs bleiben. ¶ In dieser unverkennbar schwierigen Lage ist die Bedeckung des gesteigerten Staatserfordernisses doch stets pünktlich erfolgt. ¶ Das ernste Streben nach Ersparungen bietet beruhigende Anhaltspunkte, nach erfolgter Tilgung der ausserordentlichen Staatszahlungen, welche in der gegenwärtigen Periode noch bestehen, die endliche Beseitigung der Störungen im Geldwesen und im Gleichgewichte des Staatshaushaltes zu erwarten. ¶ Es werden Ihnen ausnahmsweise in der gegenwärtigen Sitzungsperiode zwei Staatsvoranschläge, nämlich jener für das Jahr 1865 und in unmittelbarer Folge auch jener für das Jahr 1866 vorgelegt werden. ¶ Durch diese Uebergangsmassregel soll eine geordnete Zeitfolge in den Sessionen des Reichsrathes und der Landtage angebahnt und die Möglichkeit gesichert werden, die Budgetarbeiten rechtzeitig vor dem Beginn des Finanzjahres zum Abschlusse zu bringen. ¶ Das erste auf verfassungsmässigem Wege zu Stande gebrachte Finanzgesetz hat in der Staatsrechnung für

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1862 seinen Abschluss erhalten. ¶ Letztere wird Ihnen noch in dieser Session von Meiner Regierung vorgelegt werden. ¶ Ihrer eingehenden Würdigung empfehle Ich die an Sie gelangenden Gesetzentwürfe zur Regelung der directen Besteuerung, deren baldige Wirksamkeit ebenso sehr im Interesse einer gerechteren und gleichmässigeren Vertheilung der Steuerlast, als einer mehr entsprechenden Bedeckung des Staatserfordernisses zu wünschen ist. ¶ Ihre Thätigkeit wird sich der Behandlung noch anderer Finanzvorlagen zuwenden, welche die Verbesserung bestehender Gesetze und theilweise nicht unerhebliche Erleichterungen der Steuerträger zum Zwecke haben. ¶ Ich erwähne unter diesen den Entwurf eines Gesetzes über die Verminderung der Personalsteuern in Meinem Grossfürstenthume Siebenbürgen. ¶ Seit einer Reihe von Jahren nimmt die volkswirthschaftliche Einigung Deutschlands, welche, im 19. Artikel der Bundesacte als ein Ziel der Bestrebungen des Bundes bezeichnet, in späteren Verträgen bestimmtere Gestalt und einen den Zeitverhältnissen entsprechenden Ausdruck erhalten hat, die volle Aufmerksamkeit Meiner Regierung in Anspruch. ¶ Zur gedeihlichen Lösung dieser Aufgabe, die im Bundesverhältnisse gelegen und für die Interessen Oesterreichs von hoher Wichtigkeit ist, sind Verhandlungen nothwendig geworden, welche von Meiner Regierung mit jenem Ernst, welcher der Sache gebührt, noch gegenwärtig fortgeführt werden. ¶ Die Ergebnisse derselben werden Ihnen von Meiner Regierung mitgetheilt werden, und Ich hoffe, dass sie für die Feststellung des neuen Zolltarifes, welche im Laufe dieser Session zu erfolgen hat, nicht ohne günstigen Einfluss sein werden. ¶ Die Vortheile erkennend, welche die Vervielfältigung der Verkehrsmittel Meinem Reiche in jeder Beziehung zu bieten vermag, habe Ich Meine Regierung beauftragt, fortan der planmässigen Ausführung eines den Bedürfnissen Meiner Königreiche und Länder genügenden Netzes von Eisenbahnen ihre ununterbrochene und energische Thätigkeit zuzuwenden. ¶ Diesen Meinen Absichten gemäss wird Meine Regierung in naher Zeit eine Reihe von Gesetzentwürfen über die Staatsgarantie, welche von mehreren neuen Eisenbahnunternehmungen angesprochen wird, an Sie gelangen lassen. Jedenfalls wird noch im Laufe dieser Session, und zwar demnächst, jene Vorlage der verfassungsmässigen Behandlung unterzogen werden, welche die nach dem Grossfürstenthume Siebenbürgen und innerhalb desselben auszuführende Eisenbahnlinie zum Gegenstande hat. ¶ Mit tiefem Bedauern habe Ich die schweren Bedrängnisse wahrgenommen, von welchen die Industrie in Meinen Ländern, wie anderwärts heimgesucht worden ist. ¶ Der vorgerückte Standpunkt, welchen sie schon jetzt einnimmt, lässt Mich jedoch hoffen, dass sie nach kurzer Frist durch eigene Kraft unter den Segnungen des Friedens, geschirmt durch eine heilsame Gesetzgebung, zu einem dauernden und reichlich lohnenden Aufschwunge wieder gelangen werde. ¶ Mehrere Gesetzentwürfe, welche die Förderung der volkswirthschaftlichen Interessen bezwecken, sowie andere zur Competenz des gesammten Reichsrathes gehörige Vorlagen werden von Meiner Regierung in Bereitschaft gehalten, um noch im Laufe dieser Session zu Ihren Berathungen zu gelangen. ¶ Es ist Mein Wunsch, dessen Erfüllung Ihr hingebender Eifer Mir verbürgt, die Aufgaben, zu welchen Sie nunmehr sich wenden, rasch ihrer Vollendung entgegen-

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reifen zu sehen. ¶ Denn eine Reihe wichtiger und umfangreicher Vorlagen ist von Meiner Regierung für die Thätigkeit des engeren Reichsrathes vorbereitet, deren Wiederkehr an jene Voraussetzung geknüpft ist. ¶ Geehrte Mitglieder Meines Reichsrathes! Indem Ich Sie mit der Versicherung Meiner Kaiserlichen Huld und Gnade an Ihre wichtigen Aufgaben geleite, verkenne Ich die Schwierigkeiten derselben nicht. ¶ Aber fest ist Mein Vertrauen, dass es mit Ihrem Rath und Beistand Mir gelingen werde, das Reich, das die Vorsehung Mir anvertraut, mit starker Hand einer glücklichen Zukunft entgegen zu führen. ¶ Ich schöpfe dieses Vertrauen aus der Liebe und Treue, aus der Einsicht und Kraft Meiner Völker, welche Ich mit dem innigen Wunsche Meines Herzens, dass ihre Geschicke zum Heile und Ruhme ihres gemeinsamen Vaterlandes sich erfüllen mögen, dem allmächtigen Schutze des Himmels empfehle.

No. 2048.

ÖSTERREICH. — Kaiserliche Thronrede beim Schlusse der Reichsrathssession, verlesen von dem Erzherzog-Stellvertreter Ludwig Victor. —

No. 2048. Oesterreich, 27. Juli 1865.

Geehrte Mitglieder des Reichsrathes!

Es ist mir der ehrenvolle Auftrag zu Theil geworden, im Namen Sr. K. K. Apostolischen Majestät die gegenwärtige Reichsrathssession feierlich zu schliessen. ¶ Indem ich dieser Aufgabe nachkomme, begrüsse ich Sie, Erzherzoge, Prinzen des Kaiserlichen Hauses, hochwürdigste, erlauchte und geehrte Herren von beiden Häusern des Reichsrathes. ¶ Vorab liegt mir ob, eine angenehme Pflicht zu erfüllen, indem ich für den patriotischen Eifer und die unermüdliche Thätigkeit, welche sowohl in den Ausschüssen, als im Schoosse beider Häuser bei den Berathungen so vieler wichtiger Gegenstände zu Tage getreten sind, die volle Anerkennung unseres allergnädigsten Herrn und Kaisers auszusprechen habe. ¶ Wohlerkennend den Einfluss, welchen die Belebung des Verkehrs und der Industrie auf die allgemeine Wohlfahrt hat, war ein grosser Theil Ihrer Thätigkeit den Berathungen solcher Vorlagen gewidmet, welche die Beförderung der industriellen Thätigkeit im Inlande, die Ausmittlung des für dieselbe nothwendigen gesetzlichen Schutzes und die hülfreiche Unterstützung von Seite der Staatsgewalt für Unternehmen, die als die wirksamsten Förderungsmittel für industrielle und Naturproduction, für Handel und Gewerbe anzusehen sind, zum Ziele haben. ¶ Die Gründe, welche Sie nach einer sorgfältigen kenntnissreichen Prüfung zur Annahme des neuen Zoll- und Handelsvertrages mit den Deutschen Zoll-Handelsvereinsstaaten bewogen, haben auch den Entschluss Sr. Majestät bei der Unterzeichnung geleitet; wir dürfen uns der Hoffnung hingeben, dass bei einer frischen und muthigen Spannung der industriellen Kraft und Intelligenz des Landes und bei einer raschen umsichtigen Benützung der durch den Vertrag eröffneten Vortheile dieses Werk wesentlich zur Vermehrung der Wohlfahrt des Reiches beitragen werde. Unter anerkennenswerthem gegenseitigem Entgegenkommen beider Häuser sind mehrere zur Bestreitung der Bedürfnisse des Staatshaushaltes nothwendige Gesetze, namentlich das Finanzgesetz für das Jahr 1865, zu Stande gekommen. Volle Würdigung verdient

das bei der eingehenden Berathung dieses Gesetzes zu Tage getretene Streben, in Verwendung der vorhandenen Mittel für Bedürfnisse des Staatshaushaltes eine bis zu jener Grenze gehende Sparsamkeit zu beobachten, welche, ohne die innere Kraft der Monarchie und deren Machtstellung nach aussen zu schwächen, nicht überschritten werden darf. ¶ Die Erhaltung des allgemeinen europäischen Friedens, welche von jeher die Aufgabe der Kaiserlichen Regierung war, wird auch fortan der Gegenstand ihres ernsten Bestrebens sein. ¶ In der Schleswig-Holstein'schen Frage wird Se. Majestät im Einvernehmen mit Ihrem erhabenen Bundesgenossen, dem König von Preussen, dieselbe einer Lösung entgegenzuführen trachten, wie sie den Interessen Gesammt-Deutschlands und der Stellung Oesterreichs im Deutschen Bunde entspricht. ¶ Gewichtige Gründe, welche das Gesammtinteresse der Monarchie berühren und eben desswegen in dem Schoosse beider Häuser selbst patriotischen und beredten Ausdruck gefunden, rathen zur beschleunigten Einberufung der legalen Vertreter der Völker in den östlichen Theilen des Reiches und führen die Nothwendigkeit mit sich, von der Berathung des Finanzgesetzes für das Jahr 1866 in dieser Session abzusehen. ¶ Durchlauchtigste, hochwürdigste, erlauchte, hochgeehrte Herren! ¶ Die Befriedigung, mit welcher der Gedanke bei den Erfolgen Ihres einsichtsvollen patriotischen Wirkens weilt, vermag doch das tief innige Streben nicht zu schwächen, es möge eine gemeinsame Behandlung der allen Königreichen und Ländern gemeinschaftlichen Rechte, Pflichten und Interessen in naher Zukunft ein festes Band der Einigung um alle Völker dieses Reiches schlingen. Es wurzelt dieses Streben in dem Erkennen der Lebensbedingungen der Monarchie, es wurzelt in den edlen Gefühlen treuer Liebe und Anhänglichkeit an den Thron und das Gesammtvaterland. ¶ Wo eine Hoffnung auf so festem Grunde ruht, wird, was jetzt als heisser Wunsch einen kräftigen Ausdruck findet, mit der Hülfe Gottes wohl bald als gelungene That zur frohen Verkündung heranreifen.

No. 2048. Oesterreich, 27. Juli 1865.

No. 2049.

ÖSTERREICH. — Kaiserliches Manifest, betreffend die Sistirung des Gesetzes über die Reichsvertretung. —

An meine Völker!

Die Machtstellung der Monarchie durch eine gemeinsame Behandlung der höchsten Staatsaufgaben zu wahren und die Einheit des Reiches in der Beachtung der Mannigfaltigkeit seiner Bestandtheile und ihrer geschichtlichen Rechtsentwicklung gesichert zu wissen — dies ist der Grundgedanke, welcher in Meinem Diplome vom 20. Oct 1860 einen Ausdruck fand und Mich zum Wohle Meiner treuen Unterthanen fortan leiten wird. ¶ Das Recht der Völker, durch ihre legalen Vertretungen bei der Gesetzgebung und Finanzgebarung beschliessend mitzuwirken, diese sichere Bürgschaft für die Förderung der Interessen des Reiches, wie der Länder, ist feierlich gewährleistet und unwiderruflich festgestellt. ¶ Die Form der Ausübung dieses Rechtes hat das mit Meinem Patente vom 26. Februar 1861 kundgemachte Grundgesetz über die Reichsvertretung

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bezeichnet, und im sechsten Artikel des gedachten Patentes habe Ich den ganzen Inbegriff der vorausgegangenen, der wieder ins Leben gerufenen und der neu erlassenen Grundgesetze, als die Verfassung Meines Reiches verkündet. ¶ Die Belebung dieser Form, die harmonische Gestaltung des Verfassungsbaues in allen seinen Theilen, blieb dem freien Zusammenwirken aller Meiner Völker anheimgegeben. ¶ Nur mit warmer Anerkennung kann Ich der Bereitwilligkeit gedenken, mit welcher durch eine Reihe von Jahren ein grosser Theil des Reiches, Meiner Berufung folgend, seine Vertreter in die Reichshauptstadt entsandte, um im Gebiete des Rechtes, der Staats- und Volkswirthschaft hochwichtige Aufgaben zu lösen. ¶ Doch unerfüllt blieb meine Absicht, die Ich unabänderlich bewahre, den Interessen des Gesammtstaates die sichere Gewähr in einer verfassungsmässigen Rechtsgestaltung zu bieten, die ihre Kraft und Bedeutung in der freien Theilnahme aller Völker findet. ¶ Ein grosser Theil des Reiches, so warm und patriotisch auch dort die Herzen schlagen, hielt sich beharrlich fern von dem gemeinsamen legislativen Wirken, indem er seine Rechtsbedenken durch eine Verschiedenheit der Bestimmungen jener Grundgesetze zu begründen sucht, welche in ihrer Gesammtheit eben die Verfassung des Reiches bilden. ¶ Meine Regentenpflicht verbietet es, Mich länger der Beachtung einer Thatsache zu verschliessen, welche die Verwirklichung Meiner, der Entwicklung eines freien Verfassungslebens zugewandten Absicht hemmt und das Recht aller Völker in seiner Grundlage bedroht; denn auch für die Länder, welche nicht zur Ungarischen Krone gehören, wurzelt die gemeinsame legislative Berechtigung nur in jenem Boden, welcher im Artikel VI des Patentes vom 26. Februar 1861 als die Verfassung des Reiches bezeichnet wird. ¶ Insolange die Grundbedingung eines lebensvollen Inbegriffes von Grundgesetzen, der klar erkennbare Einklang seiner Bestandtheile fehlt, ist auch das grosse und gewiss segenverheissende Werk einer dauernden verfassungsmässigen Rechtsgestaltung des Reiches nicht zur That geworden. ¶ Um nun Mein Kaiserliches Wort lösen zu können, um der Form nicht das Wesen zu opfern, habe Ich beschlossen, zunächst den Weg der Verständigung mit den legalen Vertretern Meiner Völker in den östlichen Theilen des Reiches zu betreten und dem Ungarischen sowie dem Croatischen Landtage das Diplom vom 20. October 1860 und das mit dem Patente vom 26. Februar 1861 kundgemachte Grundgesetz über die Reichsvertretung zur Annahme vorzulegen. ¶ In Erwägung jedoch, dass es rechtlich unmöglich ist, eine und dieselbe Bestimmung in einem Theile des Reiches zum Gegenstande der Verhandlung zu machen, während sie gleichzeitig in den andern Theilen als allgemein bindendes Reichsgesetz behandelt würde — sehe Ich Mich genöthigt, die Wirksamkeit des Gesetzes über die Reichsvertretung mit der ausdrücklichen Erklärung zu sistiren, dass Ich Mir vorbehalte, die Verhandlungs-Resultate der Vertretungen jener östlichen Königreiche, falls sie eine mit dem einheitlichen Bestande und der Machtstellung des Reiches vereinbare Modification der erwähnten Gesetze in sich schliessen würden, vor Meiner Entschliessung den legalen Vertretern der andern Königreiche und Länder vorzulegen, um ihren gleichgewichtigen

Ausspruch zu vernehmen und zu würdigen. ¶ Ich kann es nur beklagen, dass dieser unabweislich gebotene Schritt auch einen Stillstand in dem verfassungsmässigen Wirken des engeren Reichsrathes mit sich bringt, allein der organische Zusammenhang und die gleiche Geltung aller Grundbestimmungen des Gesetzes für die gesammte Thätigkeit des Reichsrathes macht eine Scheidung und theilweise Aufrechterhaltung der Wirksamkeit des Gesetzes unmöglich. ¶ So lange die Reichsvertretung nicht versammelt ist, wird es die Aufgabe Meiner Regierung sein, alle unaufschieblichen Massregeln, und unter diesen insbesondere jene zu treffen, welche durch das finanzielle und volkswirthschaftliche Interesse des Reiches geboten sind. ¶ Frei ist die Bahn, welche mit Beachtung des legitimen Rechtes zur Verständigung führt, wenn — was Ich mit voller Zuversicht erwarte — ein opferfähiger versöhnlicher Sinn, wenn gereifte Einsicht die Erwägung Meiner treuen Völker leitet, an welche dieses Kaiserliche Wort gerichtet ist.

No. 2049. Oesterreich, 20. Sept. 1865.

Wien, am 20. September 1865.

Franz Joseph m. p.

No. 2050.

ÖSTERREICH. — Kaiserliches Patent, betreffend die Sistirung des Grundgesetzes über die Reichsvertretung. —

No. 2050. Oesterreich, 20. Sept. 1865.

Wir Franz Joseph der Erste, von Gottes Gnaden Kaiser von Oesterreich etc. etc. — thun kund und zu wissen:

In Erwägung der unabweislichen Nothwendigkeit, zur Gewinnung dauernder Grundlagen für eine verfassungsmässige Rechtsgestaltung des Reiches den Weg der Verständigung mit den legalen Vertretern der Länder der Ungarischen Krone zu betreten und zu diesem Ende den betreffenden Landtagen das Diplom vom 20. October 1860 und das mit dem Patente vom 26. Februar 1861 kundgemachte Gesetz über die Reichsvertretung zur Annahme vorzulegen; ¶ In weiterer Erwägung, dass eine gleichzeitige Behandlung dieser Urkunden als allgemein bindendes Reichsgesetz hierdurch ausgeschlossen wird, verordnen Wir nach Anhörung Unseres Ministerrathes, wie folgt:

Erstens: Die Wirksamkeit des Grundgesetzes über die Reichsvertretung wird mit dem Vorbehalte sistirt, die Verhandlungsresultate des Ungarischen und des Croatischen Landtages, falls sie eine mit dem einheitlichen Bestande und der Machtstellung des Reiches vereinbare Modification der erwähnten Gesetze in sich schliessen würden, vor Unserer Entschliessung den legalen Vertretern der anderen Königreiche und Länder vorzulegen, um ihren gleichgewichtigen Ausspruch zu vernehmen und zu würdigen.

Zweitens: Insolange die Reichsvertretung nicht versammelt ist, hat unsere Regierung die unaufschieblichen Massregeln, und unter diesen insbesondere jene zu treffen, welche das finanzielle und volkswirthschaftliche Interesse des Reiches erheischt.

No. 2050. Oesterreich, 20. Sept. 1865.

Gegeben in Unserer Haupt- und Residenzstadt Wien, den 20. September, im Eintausendachthundertfünfundsechszigsten, Unserer Regierung im siebzehnten Jahre.

Franz Joseph m. p.

Belcredi m. p., *Mensdorf* m. p., *Esterházy* m. p., *Frank* m. p., v. *Majláth* m. p., *Larisch* m. p., *Komers* m. p., *Mazuranic* m. p., *Haller* m. p.

Auf Allerhöchste Anordnung:
Bernhard Ritter v. Meyer m. p.

No. 2051.

ÖSTERREICH. — Litterae Regales an die Ungarischen Behörden, die Einberufung des Ungarischen Landtags betr. —

No. 2051. Oesterreich, 17. Sept. 1865.

Wir Franz Joseph I. etc. etc. etc. Geleitet von dem aufrichtigen Wunsche Unseres, die Beglückung Unserer Völker anstrebenden väterlichen Herzens, dass durch Unsere, im Sinne der bestehenden Gesetze zu geschehende Königliche Inauguration, die feierliche Krönung so wie die Ausfertigung des Königlichen Inauguraldiploms jenes Band der Liebe, welches Uns an Unser geliebtes Ungarn bindet, immer mehr befestigt werde, eröffnen Wir wieder jenes Feld, auf welchem Wir vor allem Anderen über das wechselseitige Verhältniss der zur Krone Unseres glorreichen Apostolischen Vorfahren, des heil. Stephan, gehörigen Länder, über die den neuerdings wesentlich geänderten Verhältnissen anzupassende gerechte, billige und eben darum dauerhafte Lösung der schwebenden staatsrechtlichen Fragen, so wie über die Uebereinstimmung der verfassungsmässigen Rechte Unseres geliebten Ungarns mit den unabweislichen Forderungen des Bestandes und der Machtstellung Unseres Reiches mit den Ständen und Abgeordneten des Landes berathen und heilsame Gesetze schaffen können. ¶ Zu diesem Zwecke, und damit Wir nach glücklicher Lösung der obigen Vorfragen über die mit 14. Februar 1861 erlassenen gnädigsten K. Einberufungsschreiben bezeichneten, so wie über andere die Erhöhung des Glückes, die Beförderung der geistigen und materiellen Interessen, die Mehrung des öffentlichen Wohles des Landes bezweckenden zahlreichen, hochwichtigen und keinen Aufschub erleidenden gesetzlichen Verfügungen mit den getreuen Ständen und Abgeordneten Unseres geliebten Ungarns und der mit ihm verbundenen Theile nach dem Wunsche Unseres väterlichen Herzens Uns berathen können, haben Wir die Einberufung und Verkündigung des mit Hülfe Gottes durch Unsere eigene Person in Unserer K. Freistadt Pest zu eröffnenden und zu leitenden gemeinsamen Landtages auf den 10. December als den zweiten Adventsonntag des Jahres 1865 beschlossen. Wesshalb Wir Euch hiermit ernstlich befehlen, dass Ihr an den bestimmten Ort und zur bestimmten Zeit in Gemässheit der auf Grundlage des Gesetzartikels vom Jahre 1848 publicirten Wahlordnung aus Eurem Schoosse zu wählende Deputirte, Frieden und Ruhe liebende geeignete Männer

ohne Widerrede zu senden verpflichtet seid, welche auf besagtem Landtage zu erscheinen, dort mit den übrigen Prälaten und Reichsbaronen, so wie den Ständen und Repräsentanten Unseres Königreiches Ungarn und der damit verbundenen Theile Unsere gnädigsten Absichten und Propositionen, als einzig und allein auf das Heil, die Erhaltung und die Blüte des Landes gerichtet, des Weiteren zu vernehmen und darüber zu berathen, so wie zu verhandeln als ihre Schuldigkeit erachten sollen. Im Uebrigen bleiben Wir Euch mit Unserer Kaiserlich-Königlichen Huld und Gnade gewogen.

No. 2051. Oesterreich, 17. Sept. 1865.

Gegeben in Unserer Reichshauptstadt Wien in Oesterreich am 17. September 1865.

Franz Joseph m. p.

Georg v. Majlath m. p.
Johann v. Barthos m. p.

No. 2052.

ÖSTERREICH. — Allerhöchstes Handschreiben an die Ungarischen Magnaten, die Einberufung zum Landtage betr. —

No. 2052. Oesterreich, 17. Sept. 1865.

Franz Joseph der Erste, von Gottes Gnaden Kaiser von Oesterreich etc. Wohl- und Hochgeborner Graf, Unser lieber Getreuer! — Bewogen von dem aufrichtigen Wunsche Unseres väterlichen Herzens, Unsere Völker zu beglücken, auf dass durch Unsere im Sinne der bestehenden Gesetze zu erwirkende feierliche Inaugurirung, Krönung und durch die Ausstellung Unseres Königlichen Diplomes jenes Band der Liebe, mit welchem Wir an Unser geliebtes Ungarn geknüpft sind, mehr und mehr befestigt werde, eröffnen Wir neuerdings den Platz, auf welchem vor Allem die gegenseitigen Beziehungen der zur Krone Unseres glorreichen Vorgängers, des heiligen Stephan gehörigen Länder, die nach Recht und Billigkeit und eben desshalb auch dauerhaft zu geschehende Lösung der schwebenden staatsrechtlichen Fragen gemäss der neuerlich in wesentlichen Dingen geänderten Verhältnisse, und damit Wir mit den Ständen und Vertretern des Reiches Uns berathen und heilsame Gesetze bringen können, über die Art, wie die verfassungsmässigen Rechte Unseres geliebten Ungarns in Einklang können gebracht werden mit dem Bestande der Monarchie und den unabweisbaren Anforderungen ihrer Machtstellung. ¶ Zu diesem Zwecke und nach glücklicher Lösung der obigen vorläufigen Fragen, die Wir durch Unsere gnädige Einberufungsschreiben de dato 14. Februar 1861 bezeichneten, und damit Wir auch über andere die Vermehrung des Glücks des Landes, die Beförderung der geistigen und materiellen Interessen desselben, und die Vermehrung des allgemeinen Besten bezweckende, zahlreiche, hochwichtige und keinen Aufschub leidende, gesetzliche Anordnungen Uns mit den getreuen Ständen und Vertretern Unseres geliebten Ungarns und der zu demselben gehörigen Theile, nach dem Wunsche Unseres väterlichen Herzens verständigen können, haben Wir den 10. December des Jahres 1865, des Advents zweiten Sonntag, bestimmt zu einem in Unserer Königlichen Freistadt Pesth mit Gottes Gnade in

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eigner Person zu eröffnenden und zu leitenden allgemeinen Landtage. ¶ Darum haben Wir es für nöthig gehalten, Dir den Termin des obenerwähnten Landtages huldvoll kundmachen zu lassen zu dem Zwecke, damit Du verpflichtet seiest, am bestimmten Orte und zur bestimmten Zeit am erwähnten Landtage zu erscheinen. ¶ Im Uebrigen bleiben Wir Dir in Unserer Kaiserlich-Königlichen Gnade huldvoll gewogen.

Gegeben in Unserer Reichshauptstadt Wien in Oesterreich am siebzehnten September des Jahres eintausend achthundert sechzig und fünf.

Franz Joseph m. p.

Georg v. Majlath m. p.
Johann v. Barthos m. p.

No. 2053.

ÖSTERREICH. — Allerhöchstes Rescript an den Ungarischen Statthaltereirath, die Wahlberathungen betr. —

No. 2053. Oesterreich, 18. Sept. 1865.

Wir Franz Joseph der Erste etc. Geleitet von dem lebhaften Wunsche Unseres väterlichen Herzens, dass die schwebenden staatsrechtlichen und andere hochwichtige Fragen, welche das geistige und materielle Wohl Unseres geliebten Königreiches Ungarn berühren, mit ernster Bedachtnahme auf die Lebensbedingungen Unserer Gesammtmonarchie und die Interessen des Landes je eher zur gesetzmässigen Lösung gelangen, haben Wir den Ungarischen Landtag auf den 10. December 1865 in Unsere Königliche Freistadt Pesth einzuberufen und behufs Wahl der Abgeordneten die mit Unserer Entschliessung vom 7. Jänner 1861 genehmigte Wahlordnung auch dermalen in Anwendung zu bringen beschlossen. ¶ Kraft Unserer Allerhöchsten Königlichen Macht und Gewalt finden Wir demzufolge allergnädigst zu gestatten, dass die zufolge Unseres Handschreibens vom 5. November 1861 aufgelösten Comitatsausschüsse und Königlich freistädtischen Repräsentanten-Körperschaften anstatt der im § 7 des Ges. Art. V vom Jahre 1848 bezeichneten Generalversammlungen zur Constituirung der Wahlbezirke und der Central-Wahlcommissionen einberufen werden können, und Euch hiermit ernstlich zu verordnen und zu befehlen, dass Ihr die zur Durchführung der Wahlen erforderlichen gesetzlichen Massnahmen ungesäumt einzuleiten für Eure Pflicht erachtet. ¶ Denen Wir übrigens mit Unserer Kaiserlich-Königlichen Huld und Gnade gewogen bleiben.

Gegeben in Unserer Haupt- und Residenzstadt Wien am 18. Sept. 1865.

Franz Joseph m. p.

Georg v. Majlath m. p.
Johann v. Barthos m. p.

No. 2054.

ÖSTERREICH. — Allerhöchstes Rescript zur Einberufung des Siebenbürgischen Landtags. —

No. 2054. Oesterreich, 6. Oct. 1865.

Wir Franz Joseph der Erste, von Gottes Gnaden Kaiser von Oesterreich; apostolischer König von Ungarn, Böhmen, Galizien und Lodomerien, König der Lombardei, Venedigs und Illyriens, Erzherzog von Oesterreich, Grossfürst von Siebenbürgen und Graf der Szekler etc. etc. etc., entbieten den zufolge Unserer Einberufung auf den 19. November d. J. versammelten Mitgliedern des Landtages Unseres geliebten Grossfürstenthums Siebenbürgen Unseren Gruss und Unsere Gnade. ¶ Mit Unserem für die Gesammtmonarchie als ein beständiges und unwiderrufliches Staatsgrundgesetz verkündeten Kaiserlichen Diplome vom 20. October 1860 haben Wir es als Unsere Regentenpflicht anerkannt, die Machtstellung der Monarchie zu wahren und ihrer Sicherheit die Bürgschaften klar und unzweideutig feststehender Rechtszustände und einträchtigen Zusammenwirkens zu verleihen und hierbei erklärt, dass solche Bürgschaften nur durch Institutionen und Rechtszustände begründet werden, welche dem geschichtlichen Rechtsbewusstsein, der bestehenden Verschiedenheit Unserer Königreiche und Länder und den Anforderungen des untheilbaren und unzertrennlichen kräftigen Verbandes derselben gleichmässig entsprechen. ¶ Innerhalb der in demselben festgestellten Grenzen haben Wir demnach in diesem Unserem Kaiserlichen Diplom vom 20. October 1860 die Wiederherstellung der althergebrachten Verfassung Unserer Länder der Ungarischen Krone und mit diesen auch der Unseres geliebten Grossfürstenthums Siebenbürgen gnädig verheissen, und Wir folgen nur den inneren Eingebungen Unseres landesväterlichen Herzens, indem Wir, in Gemässheit der in dem Diplome Unseres glorreichen Vorfahren Kaiser Leopold I. und der nachgefolgten pragmatischen Sanction wurzelnden, durch spätere Landesgesetze festgestellten Verfassung Unseres geliebten Grossfürstenthums Siebenbürgen, die legalen Vertreter des Landes auf Grund dessen früheren Landesgesetze gnädigst einberufen. ¶ Diesem zufolge haben Wir Uns huldreichst bewogen gefunden, den Landtag Unseres Grossfürstenthums Siebenbürgen auf den 19. November d. J. in Unsere K. Freistadt Klausenburg in der durch den XI. Gesetzartikel vom Jahre 1791 festgestellten Zusammensetzung einzuberufen. ¶ Damit aber auf diesem Landtage auch die früher nicht berechtigt gewesenen, durch die von Uns wiederholt ausgesprochene und sichergestellte Gleichheit aller Unserer Unterthanen vor dem Gesetze, durch die allen verbürgte freie Religionsübung, von Stand und Geburt unabhängige Aemterfähigkeit und allen obliegende gemeinsame und gleiche Wehr- und Steuerpflicht und durch die Beseitigung der Frohnen in volle Gleichberechtigung getretenen Volksklassen und Personen ebenfalls angemessen vertreten erscheinen, haben Wir nicht nur alle jene zur Betheilignng an den Wahlen zu diesem Landtage als berechtigt erklärt, welche an directen Steuern ohne Zuschlag und Kopfsteuern nach den letzten abgeschlossenen Steuertabellen den Betrag von acht Gulden entrichtet haben; — sondern Wir haben auch Sorge getragen, dass Angehörige dieser

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früher nicht vertretenen Volksklassen in die Reihe der übrigen Bestandtheile dieses Landtages aufgenommen seien. ¶ Mit Freuden begrüssen Wir Euch als die gesetzlichen Vertreter Unseres geliebten Grossfürstenthums Siebenbürgen, und indem Wir Euch hiermit zu kund thun, dass Wir zu Unserem bevollmächtigten K. Landtagscommissär Unseren aufrichtig geliebten K. K. wirklichen geheimen Rath und Kämmerer, Präsidenten des K. Siebenbürgischen Guberniums, Ritter des Ordens der eisernen Krone erster Klasse, Besitzer des Militärverdienstkreuzes mit der Kriegsdecoration, Feldmarschalllieutenant Ludwig Grafen Folliot Crenneville gnädigst ernannt haben, fordern Wir Euch Lieben Getreuen auf, in Alles, was er Euch in Unserem Königlichen Namen vorlegt, volles Vertrauen zu setzen, und Unsere durch diesen bevollmächtigten Commissär Euch bekannt zu gebenden Entschliessungen mit dankbaren Gefühlen entgegenzunehmen. ¶ Berufen, die Frage der Regelung des staatsrechtlichen Verhältnisses Unseres geliebten Grossfürstenthums Siebenbürgen in reifliche Erwägung zu ziehen, und um diese Frage bei dem innigen Verbande, in welchem Unser geliebtes Grossfürstenthum Siebenbürgen zu Unserer Ungarischen Krone steht, im richtig verstandenen Interesse beider dieser Länder einer endgültigen Lösung zuzuführen, legen Wir Euch, gleichwie Wir den bereits berufenen Ungarischen Landtag zur Revision des siebenten Gesetzartikels vom Jahre 1847/48 aufzufordern gewillt sind, als alleinigen und ausschliesslichen Gegenstand Euerer Berathung die Revision des ersten Gesetzartikels des Siebenbürgischen Landtages vom Jahre 1848 von der Vereinigung Ungarns und Siebenbürgens, die Wir in Unsern Entschliessungen vom 20. October 1860 einstweilen unberührt belassen haben, hiermit vor, und fordern Euch gnädigst auf, die Bestimmungen dieses Gesetzartikels mit Rücksicht auf die diesen beiden Ländern gemeinsamen Interessen neuerdings einer eingehenden Berathung alsogleich zu unterziehen, sodann aber die Ergebnisse dieser Euerer Berathungen Unserer Königlichen und Grossfürstlichen Schlussfassung zu unterbreiten. ¶ Denen Wir übrigens mit Unserer Kaiserlich Königlichen und landesfürstlichen Huld und Gnade unveränderlich gewogen bleiben.

Gegeben zu Ischl am 6. October im Eintausend achthundert fünf und sechzigsten, Unserer Regierung im siebzehnten Jahre.

Franz Joseph m. p.

Franz Graf Haller m. p.

Auf Sr. K. K. apost. Majestät a. h. eigenen Befehl: *Stephan v. Horváth* m. p.

No. 2055.

ÖSTERREICH. — Allerhöchstes Rescript, die Eröffnung des Croatisch-Slavonischen Landtages und die Königl. Propositionen betr. —

No. 2055. Oesterreich, 2. Nov. 1865.

Wir Franz Joseph der Erste, von Gottes Gnaden Kaiser von Oesterreich; König von Ungarn und Böhmen, König der Lombardie und Venedigs, von Dalmatien, Croatien, Slavonien, Galizien, Lodomerien und Illyrien; Erzherzog von Oesterreich etc. etc.

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Ehrwürdige, etc. — Indem Wir den Landtag Unseres Königreiches Dalmatien, Croatien und Slavonien nunmehr zum zweiten Male versammeln, ergreifen Wir mit Vergnügen die Gelegenheit, Euch Allen Unseren Königlichen Gruss zu entbieten. ¶ Auch ist es Uns ein Bedürfniss, Euch seit dem Jahre 1861 nunmehr wiederholt die Versicherung zu geben, dass, so wie das Gedeihen und die Machtentfaltung des von der Vorsehung Uns anvertrauten Völkerreiches Uns warm am Herzen liegt, Wir eben so warm und innig davon überzeugt sind, dass dieses hohe Ziel die organische, naturgemässe Entwicklung und Kräftigung der einzelnen Bestandtheile desselben nicht nur nicht aufhebt, sondern, im Gegentheil, sie voraussetzt, und eben darin seine kräftigste und dauerhafteste Stütze zu suchen hat. Die ererbten Institutionen, Gesetze und gesetzlichen Gebräuche dieses Königreiches sind so wie dessen Denkweise, Sprache und Nationalität ein wesentlicher Bestandtheil seiner innersten Natur und zugleich die Grundlage des ganzen politischen, intellectuellen und socialen Gebäudes desselben. ¶ Diese natürliche Grundlage nehmen Wir gerne und mit aller Entschiedenheit als Ausgangspunkt weiterer Fortbildung an. ¶ Nicht als letztes Ziel daher soll Uns das Geschichtliche gelten, sondern blos als best geeigneter, weil gesetzlicher Boden, der allein dauernd, sowohl für das Land als für den Gesammtstaat, Neues, Zeitgemässes hervorzubringen vermag. ¶ So wie Wir sicher sind, dass Ihr, die Vertreter eines begabten Volkes, diesen Grundsatz mit eben jener Offenheit und Rückhaltslosigkeit zugeben werdet, mit welcher Wir für gut fanden, ihn Euch gegenüber auszusprechen; ebenso halten Wir Uns für überzeugt, Ihr werdet jenen Erwägungen, welche Wir, rücksichtlich der obersten, gleichmässig alle Länder Unserer Monarchie berührenden Staatsangelegenheiten, in dem ersten Theile Unseres Königlichen Rescriptes vom 8. November 1861 niedergelegt haben, Euch nicht verschliessen. ¶ Es ist in der That ein unabweisbares Bedürfniss der Zeit, dass hinfort bei der Gesetzgebung nicht blos der einzelnen Königreiche und Länder Unseres Reiches, sondern auch der Gesammtmonarchie als solcher die Vertreter der Völker beschliessend mitwirken. ¶ Welche Angelegenheiten hierbei als gemeinsame zu behandeln seien, haben Wir in Unserem Kaiserlichen Diplome vom 20. October 1860 bestimmt. Die Form dieser Behandlung wurde durch das mit Unserem Patente vom 26. Februar 1861 kundgemachte Grundgesetz bezeichnet. ¶ Indem Wir Euch daher den Wortlaut dieser beiden Staatsacte beiliegend mittheilen, fordern Wir Euch hiermit zur Annahme derselben auf. ¶ Dieses ist Unsere erste Königliche Proposition, über welche Wir daher vor allen anderen Fragen den Beschlüssen des versammelten Landtages entgegensehen. ¶ Nach Erledigung dieser Angelegenheit werden Euere Getreuen als Unsere weiteren Königlichen Propositionen, in der daselbst vorkommenden Reihenfolge, die übrigen Gegenstände vornehmen, welche in Unserem Königlichen Rescripte vom 8. November 1861 als unerledigt bezeichnet sind. ¶ Anlässlich des Beschlusses des letzten Landtages über die Beziehungen zu Unserem Königreiche Ungarn — sprechen Wir den lebhaften Wunsch aus, dass die Lösung dieser Frage, welche auch im Ungarischen Landtage zur Berathung gelangen wird, im Wege der Verständigung beider Landtage in Kurzem erfolge. ¶ Der am 10. December d. J. zusammentretende Ungarische Landtag wird, ebenso wie jener

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vom Jahre 1861, vorzugsweise die Bestimmung haben, Unsere Inauguration als König von Ungarn, Dalmatien, Croatien und Slavonien vorzubereiten und, nach Entgegennahme des Inauguraldiploms, mit Gottes Beistand nunmehr auch wirklich zu vollziehen. Wir fordern Euere Getreuen auf, rechtzeitig dafür Sorge zu tragen, damit dieses Unser Königreich in jenem Landtage vertreten werde. ¶ Anbelangend Dalmatien berufen Wir Uns auf die in Unserem Königlichen Rescripte vom 8. November 1861 enthaltenen Ausführungen, wonach die definitive Entscheidung über die Frage der Union erst nach Regelung der staatsrechtlichen Beziehungen Croatiens erfolgen kann. Sind diese Fragen glücklich gelöst, so steht nichts im Wege, dass Euere Getreuen zur Berathung Unserer weiteren Königlichen Propositionen übergehen. ¶ Als solche bezeichnen Wir die bereits seit langer Zeit hängende, und zuletzt in Unserem Königlichen Rescripte vom 30. Juli 1861 dem Landtage vorgelegte, jedoch leider nicht zum Abschluss gebrachte Frage der zeitgemässen Regelung des Landtages und Zustandebringung eines neuen Wahlgesetzes. ¶ Die bezüglichen Gesetzentwürfe, den gegenwärtigen Bedürfnissen thunlichst angepasst, werden von Unserer Regierung sogleich nach beendeter Berathung der vorangehenden Gegenstände Eueren Getreuen zur verfassungsmässigen Behandlung vorgelegt werden. ¶ Am Schluss des Landtags erwarten Wir mit Zuversicht, dass Euere Getreuen die landtäglichen Beschlüsse in der üblichen Redaction von Gesetzartikeln Uns zur Königlichen Sanction und Ausfertigung unterbreiten werdet. ¶ Liebe Getreue! — Gross und wichtig sind die Aufgaben, die Ihr zu berathen, die Wir gemeinschaftlich zu lösen haben. ¶ Durch Vertrauen, Mässigung und reife, ruhige Ueberlegung werdet Ihr, die Söhne eines tapferen Volkes, es Uns, Eurem angestammten Könige, möglich machen, die Grundlagen Euerer nationalen Existenz fest zu begründen und für alle Zukunft zu wahren. ¶ Hiermit erklären Wir, mit Vertrauen auf Gott und auf Euere Vaterlandsliebe, den Landtag für eröffnet. ¶ Wir verbleiben Euch im Uebrigen mit Unserer Kaiserlichen und Königlichen Huld und Gnade wohlgewogen.

Gegeben in Unserer Reichshaupt- und Residenzstadt Wien in Oesterreich am 2. November im Jahre des Heils 1865, Unserer Reiche im siebenzehnten Jahre.

Franz Joseph m. p.

Emil Freiherr v. Kussevich m. p. FML.

Auf Allerhöchsten Befehl Sr. Kaiserlichen und Königlich Apostolischen Majestät:

Johann v. Daubachy m. p.

No. 2056.

ÖSTERREICH. — Thronrede bei Eröffnung des Ungarischen Landtages am 14. December 1865. —

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Indem Wir die landtäglich versammelten Stände und Vertreter Unseres geliebten Königreiches Ungarn mit aufrichtiger Freude begrüssen, geben Wir Ihnen zugleich die Absicht, welche Uns in Ihre Mitte geführt, mit jener auf-

richtigen Offenheit bekannt, welche die unerlässliche Bedingung des Vertrauens zwischen Monarchen und Völkern bildet. ¶ Wir kamen zu vollenden, was Wir durchdrungen von dem Gefühle Unserer Regentenpflicht begonnen. Unsere Absicht ist dahin gerichtet, durch Unsere persönliche Intervention und daher um so erfolgreicher jene Bedenken zu beheben und jene Hindernisse zu beseitigen, welche bis nun der Lösung der schwebenden staatsrechtlichen Fragen entgegenstanden. ¶ Unter diese reihen Wir in erster Linie den schroffen Gegensatz, der in den verschiedenen Ausgangspunkten der beabsichtigten Verständigung lag. Rechtsverwirkung einer-, starre Rechtscontinuität anderseits konnten zu keinem Ausgleiche führen. ¶ Dieses Hinderniss beseitigen Wir nun selbst, indem Wir einen gemeinschaftlich anerkannten Rechtsboden zu Unserem Ausgangspunkte wählen, jenen der pragmatischen Sanction. ¶ Indem dieses Staatsgrundgesetz die Selbständigkeit der inneren Rechtsgestaltung und Verwaltung des Königreiches Ungarn und seiner Nebenländer gewährleistet hat, wahrte es zugleich den für beständig unauflöslichen und untrennbaren Verband der unter der Regierung Unseres Hauses stehenden Königreiche und Länder, und somit die Grossmachtstellung ihrer Gesammtheit; gleichwie Wir daher in dieser die nothwendige und gesetzliche Beschränkung jener Selbständigkeit finden, ebenso anerkennen Wir ohne allen Rückhalt die Berechtigung derselben innerhalb dieser Grenzen. ¶ In gleicher Weise wünschen Wir jene Bestimmungen der pragmatischen Sanction ungeschmälert aufrechtzuerhalten, welche sich auf die Integrität der Ungarischen Krone beziehen, und obgleich Wir den in den letzten Decennien gewordenen Thatsachen Rechnung tragen müssen, haben Wir Unsere landesfürstliche Fürsorge dahin gerichtet, die Vertretung der Länder Unserer Ungarischen Krone schon auf diesem Landtage zu ermöglichen. ¶ Zu diesem Zwecke haben Wir den Landtag Unseres Grossfürstenthums Siebenbürgen einberufen, damit derselbe den die Union Ungarns mit Siebenbürgen betreffenden 1. Gesetzartikel des Jahres 1848 einer ernsten und eindringlichen Erwägung unterziehe, und fordern Wir die landtäglich versammelten Stände und Vertreter Unseres Königreiches Ungarn anmit auf, rücksichtlich des 7. Gesetzartikels des Jahres 1847/8 ein gleiches Verfahren einzuhalten, damit diese Frage nicht nach dem todten Buchstaben der Gesetze eine scheinbare und zweifelhafte, sondern im Einklange mit allen lebenskräftigen Factoren, durch deren vertrauensvollen Anschluss eine dauernde und nachhaltige Lösung finde. ¶ Ebenso haben wir dem versammelten Landtage der Königreiche Croatien und Slavonien die Aufforderung zukommen lassen, rechtzeitig dafür Sorge zu tragen, dass derselbe auf diesem Landtage angemessen vertreten werde, und indem Wir den im Jahre 1861 gefassten und das Verhältniss Croatiens zu Unserem Königreiche Ungarn betreffenden Beschluss des Croatischen Landtages mittheilen, hegen Wir die Zuversicht, dass die Vereinbarung über das Rechtsverhältniss der durch Jahrhunderte geeinigten Bruderstämme im Wege wechselseitiger Nachgiebigkeit und im Geiste jener billigen Auffassung festgestellt werden wird, der die landtäglich versammelten Stände und Vertreter des Königreiches Ungarn in ihrer am 6. Juli 1861 unterbreiteten Adresse in dieser Beziehung einen unzweideutigen Ausdruck verliehen haben. ¶ Als erste Aufgabe dieses Landtages müssen Wir die Art der

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Behandlung der allen Unseren Königreichen und Ländern gemeinsamen Angelegenheiten bezeichnen. ¶ Die Existenz solcher Angelegenheiten findet ihre Begründung schon im Geiste der pragmatischen Sanction, wenn auch rücksichtlich der Art ihrer Behandlung die wesentlich geänderten Verhältnisse eine wesentliche Aenderung erheischen. ¶ Die Umgestaltung der politischen, volkswirthschaftlichen und socialen Factoren, welche mittlerweile Raum gegriffen hat, bestimmte Uns im Gefühle Unserer hohen Aufgabe auch Unseren übrigen Königreichen und Ländern verfassungsmässige Rechte zu gewähren; und es sind folglich die allen Ländern gemeinsamen Angelegenheiten fernerhin nur unter der verfassungsmässigen Mitwirkung jener Königreiche und Länder zu behandeln. ¶ Diese Motive waren es, welche Uns geleitet, als Wir Unser Diplom vom 20. October 1860 erlassen haben, und Wir sind auch jetzt der festen Ueberzeugung, dass die gemeinsame verfassungsmässige Behandlung der in demselben bezeichneten gemeinschaftlichen Angelegenheiten ein unabweisliches Erforderniss des einheitlichen Bestandes und der Machtstellung Unseres Gesammtreiches bildet, dem jede andere Rücksicht untergeordnet werden soll. ¶ Hinsichtlich der Art ihrer Behandlung haben Wir in Unserem Patente vom 26. Februar 1861 eine Form vorgezeichnet, welche jedoch vielseitige und gewichtige Bedenken erregt hat. Nachdem Wir Uns sohin der Ueberzeugung nicht verschliessen konnten, dass diese Frage nicht mit den Waffen der materiellen oder moralischen Pression, sondern nur im Wege der allseitigen Verständigung und der Erkenntniss der Nothwendigkeit endgültig und dauernd zu lösen sei, haben Wir mit Unserem Manifeste vom 20. September l. J. die Wirksamkeit des Statutes über die Reichsvertretung zeitweilig sistirt, und legen nun den landtäglich versammelten Ständen und Vertretern des Königreiches Ungarn sowohl Unser Diplom vom 20. October 1860 als auch das Patent vom 26. Februar 1861 zur reiflichen Erwägung, eindringlichen Berathung und Annahme vor. ¶ Die wohlverstandenen Interessen Unseres Königreiches Ungarn, ebenso wie die Wohlfahrt und Sicherheit Unseres Gesammtreiches erheischen die möglichst schleunige Erledigung dieser Angelegenheit, auf dass die verfassungsmässigen Rechte der einzelnen Königreiche und Länder Unseres Reiches durch den innigen Anschluss all' Unserer Völker dauerhaft gesichert, sich auf fester Grundlage entwickeln und einer gedeihlichen Blüthe erfreuen mögen. ¶ Wir erwarten daher von den landtäglich versammelten Ständen und Vertretern Unseres Königreiches Ungarn, dass Sie die Ihnen mitgetheilten Vorlagen im Geiste der entgegenkommenden Billigkeit einer eingehenden Prüfung würdigen, und falls die gegen dieselben vorwaltenden Bedenken unlösbar schienen, Uns nur solche Modificationen unterbreiten werden, die mit den Lebensbedingungen der Gesammtmonarchie in Einklang gebracht werden können. ¶ In enger, ja untrennbarer Verbindung mit der Erledigung dieser Frage steht die Revision, beziehungsweise Umgestaltung jenes Theiles der 1848er Gesetze, welcher auf die Wirksamkeit Unserer Herrscherrechte und die Begrenzung der Regierungsattributionen Bezug hat. Was im engen Zusammenhange steht und eine gegenseitige Wechselwirkung ausübt, kann in der praktischen Verwirklichung nicht getrennt werden. Das unveränderte Inslebentreten dieser Gesetze liegt mit Hinblick auf die Machtstel-

lung Unseres Reiches, auf die ungeschmälerte Geltung Unserer Herrscherrechte, so wie auf die berechtigten Ansprüche der Nebenländer nicht im Bereiche der Möglichkeit. Obgleich daher die formelle Gesetzlichkeit derselben keinem Einwande unterliegt, so verbietet es Uns Unsere Regentenpflicht und die gewissenhafte Erwägung der allen Völkern des Reiches gleichmässig zugewendeten Fürsorge, vor der gleichzeitigen Feststellung des Verhältnisses der wechselseitigen Rechte und Pflichten die Aufrechterhaltung und Anwendung dieser Gesetze mit Unserem Königlichen Inaugural-Eide zu bekräftigen. Es ist also nothwendig, dass die Bestimmungen jener Gesetze, welche entweder Unsere Herrscherrechte beschränken oder sich auf die Aenderung der Regierungsform beziehen, ohne diese mit den Bedingungen des Bestandes der Monarchie und mit den auf den altererbten Grundlagen beruhenden inneren Institutionen des Landes in Einklang zu bringen, sorgsam geprüft und zweckmsasig geändert werden. ¶ Auf diese Weise wird es ermöglicht werden, dass auch Wir mit ruhigem Gewissen Unseren Königlichen Inaugural-Eid auf die angemessen umgeformte und für die späte Nachkommenschaft dauernd gefestigte Ungarische Verfassung leisten und die Weihe der Krönung mit dem Diademe des heiligen Stephan, Unseres Apostolischen Vorfahren, empfangen können, mit jener heiligen Krone, welcher Wir die Wohlfahrt Unseres Königreiches Ungarn und die ungebrochene Liebe seiner Völker als werthvollsten Edelstein einzufügen gewillt sind. ¶ Als gekrönter König werden Wir nicht ermangeln, den landtäglich versammelten Ständen und Vertretern ausser jenen Vorlagen, welche Wir schon an den am 2. April 1861 versammelten Landtag gelangen liessen, noch über zahlreiche andere Angelegenheiten Unsere Königlichen Propositionen mitzutheilen. ¶ Es sind dies Gegenstände, welche die geistigen und materiellen Interessen in den weitesten Kreisen berühren und deren erfolgreiche Regelung ohne empfindlichen Nachtheil des Landes kaum einen weiteren Aufschub gestatten. ¶ Der Wille der göttlichen Vorsehung hat Uns grosse und schwierige Aufgaben vorgezeichnet; nicht minder ernste und im Hinblicke auf den in einem grossen Theile Unseres Reiches eingetretenen Stillstand des Verfassungslebens mit schwerer Verantwortlichkeit verbundene — diesem Lande. Unlösbar sind dieselben jedoch nicht, wenn das Land im Vereine mit seinem Monarchen den Traditionen der Väter folgend mit Selbstverläugnung und Opferwilligkeit an dieselben herantritt. Wir hoffen dies um so mehr, als das Land, indem es Kraft und Gewicht verleiht, an Kraft und Gewicht zunimmt, — indem es zur Hebung der Schwierigkeiten schreitet, sich selbst erhebt, — indem es den Bestand der Gesammtheit gewährleistet, den eigenen Bestand wahrt, und wenn es Uns nach einer bedrängnissvollen Epoche gelingen wird, Unser Reich durch die bedenklichen Wendungen einer schwierigen Lage mit dem Beistande dieses Landes dem ersehnten Ziele glücklich entgegenzuführen, werden Wir den Augenblick segnen, der Unseren Entschluss zur Reife gebracht, das Vertrauen zwischen Herrscher und Volk wieder zu beleben und dauernd zu festigen. ¶ Mit vertrauensvoller Zuversicht sehen Wir der aufrichtigen Darlegung der Anschauungen der versammelten Stände und Vertreter des Landes entgegen, und indem Wir den Landtag Unseres Königreiches Ungarn anmit in feierlicher Weise für eröffnet erklären, schliessen Wir mit dem innigen

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Wunsche, es möge Uns gegönnt sein, das grosse Werk der Verständigung mit Gottes Hülfe zur Zufriedenheit all' Unserer Völker einem gedeihlichen Ende zuzuführen.

No. 2057.

ÖSTERREICH. — Bericht über die corporative Aufwartung beider Häuser des Ungarischen Landtags bei Sr. Maj. dem Kaiser. —

Ofen, 17. December 1865.

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Heute Mittags fand die corporative Aufwartung der beiden Häuser des Landtages bei Sr. Majestät dem Kaiser in der Königl. Burg in Ofen statt. Die Vorstellung fand im Thronsaale statt. Der Schriftführer Graf Zichy verlas das alphabetische Verzeichniss der Landtagsmitglieder und der Alterspräsident stellte die Deputirten in derselben Reihenfolge Sr. Majestät vor. In ganz gleicher Weise folgte hierauf die Vorstellung der einzelnen Mitglieder des Oberhauses. Bei dieser corporativen Aufwartung hielt der Alterspräsident des Unterhauses Sigmund Bernáth folgende Ansprache an Se. Majestät:

„Ew. K. K. Majestät! — Dem constitutionellen Körper der durch Ew. Majestät zum Landtag einberufenen Deputirten ist heute das Glück zu Theil geworden, ihre allerunterthänigste Huldigung und unerschütterliche Treue auf die Stufen des Königlichen Thrones Ew. Majestät niederlegen zu dürfen, und sie bitten mit der schuldigen tiefsten Ehrfurcht und Unterthänigkeit, Ew. Majestät mögen geruhen, sie mit Allerhöchstihrer Königlichen Gnade zu empfangen und ihnen Allerhöchstihr Königliches Wohlwollen zu bewahren! ¶ Durchdrungen von den dem Herzen Ew. Majestät entflossenen erhabenen Aeusserungen, mit welchen Ew. Majestät in den jüngsten Tagen die treuen Völker unseres Landes mit besseren Hoffnungen zu trösten geruhten — bietet dieser Körper mit voller Bereitwilligkeit und mit dem von der Heiligkeit der Sache gebotenen Ernst seine schuldige Mitwirkung, seine treuen unermüdlichen Dienste in allen den Angelegenheiten an, welche unseren Gesetzen gemäss das Heil und den Ruhm Ew. Majestät, Allerhöchstihres Königlichen Thrones, des Vaterlandes und des Volkes befördern und befestigen können. ¶ Hiermit in Verbindung, allergnädigster König und Herr, nährt dieser Körper auch die Ueberzeugung, dass, wenn nach der glücklichen Lösung der staatsrechtlichen Vorfragen Ew. Majestät unter freiem Himmel angesichts der Millionen des Volkes Allerhöchstihren Königlichen Eid leisten und alle Herzen dieses Volkes Ew. Majestät zugewendet sein werden, auch diesem Körper, als täglichem Augenzeugen der brennenden Bedürfnisse des Volkes und dem pflichtschuldigen Dollmetscher der Wünsche des Volkes, Zeit und Gelegenheit geboten sein wird, das, was er zur Förderung der öffentlichen Wohlfahrt, der Zufriedenheit, des allgemeinen Wohlstandes und Friedens als zweckmässig erkennen wird, der väterlichen Gnade Ew. Majestät zu empfehlen. ¶ Gestatten Ew. Majestät allergnädigst, dass dieser treue Körper diese feierliche Stunde zum Ausdruck eines herzlichen, aber gerade desshalb um so heisseren

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Wunsches und einer allerunterthänigsten Bitte benütze. ¶ Mit überschwänglicher Freude vernahmen alle Völker dieses Landes von der Verwirklichung ihres in ihren Gebeten enthaltenen Wunsches, dass nämlich der Allmächtige Ew. Majestät mit den erwünschtesten beglückenden Banden des Familienlebens gesegnet hat. — Wir würden es als ein neues Zeichen der Königlichen Gnade nehmen, wenn Ew. Majestät uns nicht länger in dem Wunsche schmachten liessen, dass wir auch Ihrer Majestät der Kaiserin und Königin unseren allerunterthänigsten Glückwunsch zu Füssen legen und uns beugen dürfen vor dem strahlenden Muster der erhabenen weiblichen Tugenden, welches das Leben unseres Herrn und Königs zu einem Himmelreich auf Erden macht. ¶ Wir empfehlen unseren Körper insgesammt und einzeln der Allerhöchsten Gnade Ew. Majestät, aus der Tiefe der Seele flehen wir: Der Gott der Völker erhöre und erfülle den von Millionen Lippen wiederhallenden Wunsch, dass Ew. Majestät glücklich und bis zur fernsten Grenze des menschlichen Alters leben möge." —

Auf diese Ansprache geruhten Se. Majestät Folgendes zu erwiedern:

„Freudig nehme Ich die Begrüssung der Vertreter Meines geliebten Königreiches Ungarn entgegen, und aus der Tiefe Meines Herzens erwiedere Ich dieselbe. Gross und schwierig ist die Aufgabe, welche Ihrer wartet. Wenn jedoch, wie Ich nicht zweifle, gegenseitiges Vertrauen und Grundsätze der Billigkeit Ihre Thätigkeit leiten und Ihre mit Mässigung vereinte Weisheit Meinen väterlichen Absichten entspricht, so wird der Landtag im Leben der Nation eine denkwürdige Epoche der neubegründeten Zufriedenheit bilden, denn die Geschichte bezeuget es, dass keine Aufgabe so schwierig ist, zu deren Lösung die mit ihrem König verbündete Ungarische Nation nicht befähigt wäre. Die Aeusserungen der Huldigung, mit welcher Sie der Kaiserin gedenken, werde Ich mit Vergnügen mittheilen, und Ich hoffe, dass Wir demnächst Ihren Wunsch erfüllend, zusammen in Ihren Kreis zurückkehren, um Zeuge zu sein, wie sich Meine Bestrebungen für das Wohl des Landes erfüllen."

Führer des Oberhauses war der Fürst-Primas; derselbe begrüsste Se. Majestät mit folgender Ansprache:

„Ew. Kaiserl. und Apost. Königliche Majestät! Allergnädigster Herr! — Mit unbeschreiblichem Dankgefühl sehen wir die grossen Hoffnungen in Erfüllung gehen, welche die Allerhöchste Anwesenheit Ew. Majestät vor sechs Monaten in unseren sich nach einem besseren Zustand sehnenden Herzen erweckte. Ew. Majestät ist wieder in das Herz Ihres getreuen Landes gekommen, um dessen einberufenen Landtag mit der vollen Autorität Allerhöchstihrer Königlichen Person zu eröffnen. Wir schätzen uns glücklich, dass wir diesen grossen Tag erlebt haben, wesshalb wir auch danken dem allgütigen Gott, und danken für die väterliche Gnade Ew. Majestät. ¶ In der Fülle unseres Glückes finden wir nicht Worte, in welchen wir nur einigermassen das Dankgefühl ausdrücken könnten, mit welchem jeder Satz, jedes Wort, jeder Buchstabe der Thronrede unsere Herzen erfüllt. Das ist für uns um so mehr Glück, weil wir die geheiligte Person Ew. Majestät flehend bitten, Ew. Majestät während der Dauer des Landtages wieder in dieser Stadt begrüssen zu dürfen. Ja, unser Herz nährt auch noch die beglückende Hoffnung, an der Seite Ew. Majestät

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unsere tiefverehrte und heissgeliebte Landesmutter, unsere allerdurchlauchtigste Königin, im Herzen des Landes ehrfurchtsvoll begrüssen zu dürfen. Es sei uns gestattet, Ew. Majestät in tiefster Unterthänigkeit zu bitten, dass diese unsere Herzen und Seelen erheiternde und beglückende Hoffnung durch die mächtige Vermittlung Ew. Majestät baldigst in Erfüllung gehe. Sehnsuchtsvoll sieht das ganze Land diesem höchsten Glück entgegen, und alle Herzen sehnen sich darnach bei dieser Gelegenheit noch glänzender beweisen zu dürfen, dass die Unterthanstreue, huldigende Ehrfurcht und unerschütterliche Anhänglichkeit des Ungars für seinen König und seine Königin ohne Grenzen ist. ¶ Indem wir uns und unser ganzes Vaterland der mächtigen väterlichen und mütterlichen Gnade Ew. Majestäten empfehlen, rufen wir aus vor Freude bebendem Herzen: Es lebe Se. Majestät der König, es lebe Ihre Majestät die Königin!"

Auf diese Ansprache geruhten Se. Majestät zu erwiedern:

„Ich bin überzeugt von der Aufrichtigkeit Ihrer Gefühle, sowie auch davon, dass Sie würdige Nachfolger Ihrer Vorfahren sind, die durch Vereinigung der Treue und Vaterlandsliebe stets feste Stützen des Thrones waren. Ich hoffe, dass Sie diesen traditionellen Beruf auch in diesem ernsten Augenblicke um so mehr erfüllen werden, als Sie dadurch auch unseren gemeinsamen Wunsch, die heilsame Lösung der schwebenden staatsrechtlichen Fragen, verwirklichen können. Durch aufrichtige Verbindung, mit festem Willen und auf Gott vertrauend, werden wir dieses Ziel erreichen. Mit Vergnügen nehme Ich die Aeusserung Ihrer treuen Anhänglichkeit auch im Namen der Kaiserin entgegen und hoffe, dass Sie demnächst Gelegenheit haben wird, dies auch persönlich auszusprechen."

No. 2058.

ÖSTERREICH. — Allerhöchstes Rescript, die Vertagung des Siebenbürgischen Landtags betr. —

No. 2058. Oesterreich, 25. Dec. 1865.

Franz Joseph der Erste, von Gottes Gnaden Kaiser von Oesterreich; apostolischer König von Ungarn, Böhmen, Galizien und Lodomerien etc. etc. etc., entbieten den zufolge Unserer Einberufung auf den 19. November 1865 in Unserer Königlichen Freistadt Klausenburg versammelten Mitgliedern des Landtags Unseres geliebten Grossfürstenthums Siebenbürgen Unsern Gruss und Unsere Gnade. ¶ Wir hatten Uns bewogen gefunden, Euch lieben Getreuen mittelst Unseres Rescriptes vom 1. September l. J. zu dem in Unsere Königliche Freistadt Klausenburg am 19. November l. J. zusammentretenden Landtage einzuberufen, und zum ausschliesslichen Gegenstand der Verhandlung dieses Landtages die vorzunehmende Revision des von Uns bis nunzu unberührt gelassenen 1. Gesetzartikels vom Jahre 1848 über die Union Unseres geliebten Grossfürstenthums Siebenbürgen mit Unserem Königreiche Ungarn bestimmt. ¶ Es ist fortan Unsere schon in dem Rescripte vom 6. October l. J. kundgegebene, das Wohl beider Länder umfassende Absicht, dass die hochwichtige Frage der Regelung der staatsrechtlichen Verhältnisse des Grossfürstenthums Siebenbürgen, welches im innigen Verbande zu Unserer Ungarischen Krone steht, einer be-

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friedigenden Lösung zugeführt werde. ¶ Nach einer neuerlichen ernsten Berathung habt Ihr in Eurer Uns unterbreiteten allerunterthänigsten Repräsentation vom 18. December l. J. die politische und volkswirthschaftliche Wichtigkeit eines innigeren Anschlusses Siebenbürgens an Unser Königreich Ungarn hervorgehoben; gleichzeitig habt Ihr in billiger Würdigung der Interessen der verschiedenen Nationalitäten und Confessionen Siebenbürgens die formulirten Anträge des Kronstädter Deputirten Friedrich Bömches im Interesse der Sächsischen, und jene des Koloser Comitatsdeputirten Joseph Hoszu zu Gunsten der Romanischen Nation, zur Vorlage an den gemeinschaftlichen Landtag anempfohlen, und auch die Sondermeinungen des Griechisch-Orientalischen Erzbischofs Andreas Freiherrn v. Schaguna und des Hermannstädter Deputirten Jacob Rannicher und Genossen, der Repräsentation beigeschlossen. ¶ Euren Bitten Gehör gebend, und damit die Lösung der die gesammte Monarchie berührenden staatsrechtlichen Fragen keinen Aufschub erleide, gestatten Wir, dass der gegenwärtige Krönungslandtag Ungarns, welcher sich mit der Regelung jener Fragen zu befassen haben wird, von Unserem geliebten Grossfürstenthum Siebenbürgen nach der Art und der Wahlordnung vom Jahre 1848 zur Wahrung der Landesinteressen beschickt werde. ¶ Indem wir die Vertretung Siebenbürgens an diesem Landtage genehmigen, geschieht es mit der ausdrücklichen Erklärung, dass hierdurch die Rechtsbeständigkeit der bisher erflossenen Gesetze keineswegs alterirt werde. ¶ Die definitive Union beider Länder, welche Wir nur auf Grundlage der geregelten staatsrechtlichen Verhältnisse der Länder der Ungarischen Krone unter einander und zu dem Reiche verwirklichen können, machen Wir überdies von der gehörigen Berücksichtigung der speciellen Landesinteressen Unseres Grossfürstenthums Siebenbürgen und von der Gewährleistung der auch durch Euch gewürdigten Rechtsansprüche der verschiedenen Nationalitäten und Confessionen, und von der zweckmässigen Regelung der administrativen Fragen dieses Landes abhängig. ¶ In Anbetracht dieser Unserer Entschliessung finden Wir den gegenwärtigen Landtag bis auf Weiteres zu vertagen. ¶ Unter Einem verfügen Wir, dass unverzüglich zur Wahl der zu dem jetzt in Unserem Königreiche Ungarn tagenden Krönungslandtage abzusendenden Vertreter Siebenbürgens geschritten werde, und Wir werden das Geeignete veranlassen, dass diejenige Kategorie der Regalisten, welcher der erste Paragraph des 7. Ungarischen Gesetzartikels vom Jahre 1848 an der Magnatentafel Sitz und Stimmrecht giebt, mit thunlichster Beschleunigung nach Pest berufen werde. ¶ Denen Wir übrigens mit Unserer Kaiserlich Königlichen und landesfürstlichen Huld und Gnade unveränderlich gewogen bleiben.

Gegeben in Unserer Haupt- und Residenzstadt Wien am 25. December im eintausend achthundert fünfundsechszigsten, Unserer Regierung im achtzehnten Jahre.

Franz Joseph m. p.

Franz Graf Haller m. p.

Auf Sr. K. K. apost. Majestät a. h. Befehl: *Nikolaus Graf Teleki* m. p.

No. 2059.

ÖSTERREICH. — Allerhöchstes Rescript, die Einberufung der Mitglieder des Siebenbürgischen Landtags zum Ungarischen Krönungslandtage betr. —

No. 2059. Oesterreich, 25. Dec. 1865.

Franz Joseph der Erste, von Gottes Gnaden Kaiser von Oesterreich; apost. König von Ungarn, Böhmen, Galizien und Lodomerien etc. etc.

Hochgeborne, Ehrwürdige, Edle, Hochwohlgeborne, Wohlgeborne, Edelgeborne, Ehrsame, Fürsichtige und Weise, Unsere lieben Getreuen.

Ueber die von Seite der zufolge Unseres Einberufungsrescriptes vom 1. September 1865 in Unserer Königl. Freistadt Klausenburg versammelten Mitglieder des Landtages Unseres Grossfürstenthums Siebenbürgen in der Uns unter dem 18. December l. J. unterbreiteten Repräsentation gestellten Bitten haben Wir, denselben Gehör gebend, Uns gnädigst bewogen gefunden, zu gestatten, dass der dermalige, von Uns auf den 10. December l. J. in Unsere Königl. Freistadt Pest berufene Ungarische Landtag nach der Art und Wahlordnung vom Jahre 1848 auch durch die Kronberufenen und Abgeordneten der Jurisdictionen Unseres Grossfürstenthums Siebenbürgen beschickt werde.

Diesem gemäss tragen Wir Euch, lieben Getreuen, in Gnaden auf, an die Comitate, Districte mit Einschluss des Naszoder, an die Szekler Stühle, dann an die Sächsischen Stühle und Districte, an die Königl. Freistädte und Marktflecken, die entsprechenden Verfügungen zu treffen, damit im Sinne der Bestimmungen des 2. Siebenbürgischen Gesetzartikels vom Jahre 1848 die Wahlen der Abgeordneten mit Beschleunigung vollzogen und die gewählten Abgeordneten zu dem bereits tagenden Ungarischen Landtage sofort entsendet werden.

Denen Wir übrigens mit Unserer Kaiserlich Königlichen und landesfürstlichen Huld und Gnade unveränderlich gewogen bleiben.

Gegeben in Unserer Haupt- und Residenzstadt Wien, am 25. December im eintausend achthundert fünfundsechzigsten, Unserer Regierung im achtzehnten Jahre.

Franz Joseph m. p.

Franz Graf Haller m. p.

Auf Sr. K. K. apost. Majestät a. h. Befehl: *Nikol. Graf Teleki* m. p.

No. 2060.

ÖSTERREICH. — Allerhöchstes Rescript an den Staatsminister, Amnestie für Venetien betr. —

No. 2060. Oesterreich, 1. Jan. 1866.

Lieber Graf Belcredi! Zur Beruhigung der betheiligten Bevölkerung Meines Lombardisch-Venetianischen Königreiches finde Ich Folgendes anzuordnen:

1. Jenen ehemaligen Angehörigen des Lombardisch-Venetianischen Königreiches, welche als unbefugte Auswanderer verurtheilt worden sind, werden

die in dem Patente vom 24. März 1832 enthaltenen gesetzlichen Folgen der unbefugten Auswanderung nachgesehen, und ist das unter Sequester stehende Vermögen an die Eigenthümer, beziehungsweise an die gesetzlichen Vertreter oder gehörig ausgewiesenen Bevollmächtigten derselben unverzüglich auszufolgen. ¶ Diese Personen bleiben jedoch der Oesterreichischen Staatsbürgerschaft verlustig und sind in allen bürgerlichen und politischen Beziehungen fortan als Fremde zu behandeln.

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2. Alle wegen unbefugter Auswanderung von Angehörigen des Lombardisch-Venetianischen Königreichs bei den Gerichten anhängigen Processe sind niederzuschlagen.

3. Mein Statthalter im Lombardisch-Venetianischen Königreiche hat den Auswanderern dieses Landes die Entlassung aus dem Oesterreichischen Staatsverbande auch beim Bestande der Hindernisse des § 7 des obigen Patentes zu bewilligen, wenn dieselben binnen Jahresfrist vom heutigen Tage darum einschreiten und die übrigen im § 3 des berufenen Patentes angeführten Erfordernisse erfüllen.

4. Der Statthalter ist ermächtigt, Gesuche der unbefugt Abwesenden oder Ausgewanderten des Lombardisch-Venetianischen Königreichs, mit Ausnahme der Militärdeserteurs, um straffreie Rückkehr und beziehungsweise um Wiederverleihung der Oesterreichischen Staatsbürgerschaft bewilligend zu erledigen, wenn diese Gesuche innerhalb eines Jahres vom heutigen Tage eingebracht werden. ¶ Im Falle der Statthalter aus Rücksichten der Staatssicherheit Bedenken trüge, in die Bewilligung von derlei Gesuchen einzugehen, werden diese an das Staatsministerium behufs der einverständlichen Entscheidung mit den Ministerien des Aeussern und der Polizei, und bei abweichenden Meinungen Mir zur Schlussfassung vorzulegen sein. ¶ Sie haben den Inhalt dieses Handschreibens unverweilt zur allgemeinen Kenntniss zu bringen.

Wien, 1. Januar 1866.

Franz Joseph m. p.

No. 2061.*)

PREUSSEN. — Königl. Thronrede bei Eröffnung des Landtags am 14. Jan. 1865. —

Erlauchte, edle und liebe Herren von beiden Häusern des Landtages! — Ein ereignissreiches Jahr liegt hinter uns. In demselben ist es Mir gelungen, im Bunde mit Sr. Majestät dem Kaiser von Oesterreich eine Ehrenschuld Deutschlands, deren Mahnungen wiederholt und unter tiefer Erregung des nationalen Gefühls an das gesammte Vaterland herangetreten waren, durch die siegreiche Tapferkeit der vereinten Heere vermittelst eines ehrenvollen Friedens einzulösen. Gehoben durch die Genugthuung, mit welcher unser Volk auf diesen Preussens würdigen Erfolg zurückblickt, wenden wir unsere

No. 2061. Preussen, 14. Jan. 1865.

*) Vergl. Bd. VI, No. 986—993.

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Herzen in Demuth zu Gott, durch dessen Segen es Mir vergönnt ist, Meiner Kriegsmacht im Namen des Vaterlandes für Thaten zu danken, die sich der ruhmreichen Kriegsgeschichte Preussens ebenbürtig anreihen. ¶ Nach einer halbhundertjährigen, nur durch ehrenvolle Kriegszüge von kürzerer Dauer unterbrochenen Friedensperiode haben sich die Ausbildung und Mannszucht Meines Heeres, die Zweckmässigkeit seiner Verfassung und seiner Ausrüstung in dem vorjährigen durch Ungunst der Witterung und durch den tapferen Widerstand des Feindes denkwürdigen Kriege glänzend bewährt. Es ist der jetzigen Organisation des Heeres zu verdanken, dass der Krieg geführt werden konnte, ohne die Erwerbs- und Familienverhältnisse der Bevölkerung durch Aufbietung der Landwehr zu beeinträchtigen. Nach solchen Erfahrungen ist es um so mehr Meine landesherrliche Pflicht, die bestehenden Einrichtungen aufrecht zu erhalten und auf der gegebenen Grundlage zu höherer Vollkommenheit auszubilden. Ich darf erwarten, dass beide Häuser des Landtages Mich in der Erfüllung dieser Pflicht durch ihre verfassungsmässige Mitwirkung unterstützen werden. ¶ Besondere Pflege erfordert die Entwickelung der Marine. Sie hat im Kriege durch ihre Leistungen sich einen gerechten Anspruch auf Anerkennung erworben und ihre hohe Bedeutung für das Land dargethan. Soll Preussen der ihm durch seine Lage und politische Stellung zugewiesenen Aufgabe genügen, so muss für eine entsprechende Ausbildung der Seemacht Sorge getragen und dürfen bedeutende Opfer für dieselbe nicht gescheut werden. In dieser Ueberzeugung wird Ihnen Meine Regierung einen Plan zur Erweiterung der Flotte vorlegen. ¶ Die Verpflichtung zur Fürsorge für die im Dienste und auf dem Felde der Ehre an Gesundheit und Leben beschädigten Krieger und deren Hinterbliebenen wird in der Vorlage eines Invaliden-Pensions-Gesetzes einen wohlberechtigten Ausdruck finden, und Ich hoffe, dass Sie demselben eine bereitwillige Aufnahme zuwenden werden. ¶ Die Aufstellung von Truppen an der Polnischen Grenze hat nach dem Erlöschen der Insurrection im Nachbarlande wieder aufgehoben werden können. Durch die gemässigte aber feste Haltung Meiner Regierung wurde Preussen gegen Uebergriffe des Aufstandes sicher gestellt, während gegen einzelne Theilnehmer an Bestrebungen, welche die Losreissung eines Theiles der Monarchie zum Endziele hatten, von den zuständigen Gerichten auf Strafe erkannt worden ist. ¶ Dass die günstige Finanzlage des Staats es gestattet hat, den Dänischen Krieg ohne Anleihe durchzuführen, muss eine grosse Genugthuung gewähren. Es ist dies mit Hülfe einer sparsamen und umsichtigen Verwaltung, vornehmlich durch die beträchtlichen Ueberschüsse der Staats-Einnahmen in den beiden letzten Jahren, möglich geworden. Ueber die durch den Krieg veranlassten Kosten und die zu ihrer Bestreitung verwendeten Geldmittel wird Ihnen nach dem Finalabschluss für das verflossene Jahr Meine Regierung vollständige Vorlagen machen. ¶ Der Staatshaushalts-Etat für das laufende Jahr wird Ihnen unverzüglich vorgelegt werden. In demselben sind die aus der neuen Grund- und Gebäudesteuer zu erwartenden Mehreinnahmen in Ansatz gebracht, und auch die sonstigen Einnahmen haben unter Festhaltung der bewährten Grundsätze einer vorsichtigen Veranschlagung zu erhöhten Beträgen angenommen werden können. Es ergeben sich dadurch die Mittel, nicht allein das Gleichgewicht der Einnahmen und

Ausgaben auch in dem Etat wiederherzustellen, sondern auch eine beträchtliche Summe zur Befriedigung neuer Bedürfnisse in allen Verwaltungszweigen zu bewilligen. Ausser den allgemeinen Rechnungen über den Staatshaushalt der drei Jahre von 1859 bis 1861, deren Vorlage von Neuem stattzufinden hat, wird Ihnen nunmehr auch die Rechnung für das Jahr 1862 zur Entlastung der Staatsregierung übergeben werden. ¶ Die Arbeiten zur anderweiten Regelung der Grundsteuer sind in der vorgeschriebenen Zeit und in befriedigender Weise zum Abschluss gebracht. Dass dieses Ziel erreicht worden, ist, wie Ich gern anerkenne, wesentlich den eifrigen Bemühungen zu danken, mit welchen von allen Seiten die Lösung der schwierigen und mühsamen Aufgabe angestrebt wurde. ¶ Auch die Veranlagung der Gebäudesteuer ist soweit gediehen, dass sie nur noch der schliesslichen Berichtigung bedarf. ¶ Meine Regierung ist unablässig bestrebt, die Fortschritte in den verschiedenen Zweigen der Landescultur zu befördern und für eine Vermehrung und Verbesserung der Communicationsmittel Sorge zu tragen. Der Entwurf einer allgemeinen Wegeordnung wird von Neuem einen wichtigen Gegenstand Ihrer Berathung bilden. Auch wegen Erweiterung und Vervollständigung des Eisenbahnnetzes werden Ihnen mehrere Vorlagen übergeben werden. ¶ Zur Anlage einer für Handels- und Kriegsschiffe jeder Art nutzbaren Canalverbindung zwischen der Ost- und Nordsee durch Schleswig und Holstein hat Meine Regierung technische Vorarbeiten ausführen lassen. Bei der Wichtigkeit dieses grossartigen Unternehmens für die Interessen des Handels und der Preussischen Marine wird Meine Regierung bemüht sein, die Ausführung durch eine angemessene Betheiligung des Staats sicher zu stellen, und Ihnen nach Abschluss der vorbereitenden Verhandlungen darüber nähere Mittheilungen machen. ¶ Der Bergbau, befreit von lästigen Beschränkungen, erleichtert in seinen Abgaben und gefördert durch die Vermehrung der Absatzwege, entwickelt sich zu einem erfreulichen Aufschwung. Sie werden den Entwurf eines allgemeinen Berggesetzes zur Prüfung empfangen, welches die Rechtsverhältnisse des Bergbaues zu ordnen bestimmt ist. ¶ Die im Interesse des Handels unserer Seehäfen für die Dauer des Krieges erlassene Verordnung in Betreff der extraordinären Flaggengelder wird Ihnen zur nachträglichen Genehmigung zugehen. ¶ Es ist Meiner Regierung gelungen, die Hindernisse, welche die Fortdauer des Deutschen Zollvereins nach Ablauf der Vertragsperiode zu gefährden drohten, zu beseitigen. Die mit der Regierung Sr. Majestät des Kaisers der Franzosen abgeschlossenen Verträge haben die Zustimmung der sämmtlichen Vereins-Regierungen erhalten und die Zollvereins-Verträge sind mit einigen durch die Erfahrung gerechtfertigten Abänderungen erneuert worden. Diese Verträge, sowie ein nachträglich mit Frankreich getroffenes Abkommen in Betreff der von unsern Zollverbündeten geltend gemachten Wünsche, werden Behufs Ihrer Zustimmung vorgelegt werden. Die in Folge jener Verträge in Gemeinschaft mit den Regierungen von Bayern und Sachsen eingeleiteten Verhandlungen mit Oesterreich zur Erleichterung und Beförderung der beiderseitigen Verkehrsbeziehungen lassen ein baldiges Ergebniss gewärtigen. ¶ Das Werk, welches durch die Verträge mit Frankreich im August 1862 eingeleitet und dessen Durchführung seitdem von Meiner Regierung wie von der Sr. Majestät des Kaisers der

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Franzosen mit gleicher Beharrlichkeit gefördert wurde, nähert sich somit einem Abschlusse, welcher in weiten Gebieten dem Handel eine freiere Bewegung gestatten und den freundschaftlichen Beziehungen benachbarter Nationen durch die Gemeinsamkeit der Entwickelung ihrer Wohlfahrt eine neue Bürgschaft verleihen wird. ¶ Ich habe der Thaten Meines Kriegsheeres nicht gedenken können, ohne darin die gleiche freudige und herzliche Anerkennung für das Oesterreichische Heer mit einzubegreifen. Wie die Krieger beider Heere in Waffenbrüderschaft den Lorbeer getheilt haben, so hat die beiden Höfe den eingetretenen Verwickelungen gegenüber ein enges Bündniss verknüpft, welches seine feste und dauernde Grundlage in Meinen und Meines erhabenen Verbündeten Deutschen Gesinnungen fand. In diesen Gesinnungen und in der Treue gegen die Verträge liegt die Bürgschaft für die Erhaltung des Bandes, welches die Deutschen Staaten umschlingt und ihnen den Schutz des Bundes sichert. ¶ Der Friede mit Dänemark hat Deutschland seine bestrittenen Nordmarken, und diesen die Möglichkeit der lebendigen Betheiligung an unserem nationalen Leben zurückgegeben. Es wird die Aufgabe Meiner Politik sein, diese Errungenschaft durch Einrichtungen sicher zu stellen, welche uns die Ehrenpflicht des Schutzes jener Grenzen erleichtern und die Herzogthümer in den Stand setzen, ihre reichen Kräfte für die Entwickelung der Land- und Seemacht wie der materiellen Interessen des gemeinsamen Vaterlandes wirksam zu verwerthen. Unter Aufrechthaltung dieser berechtigten Forderungen werde Ich die Erfüllung derselben mit allen begründeten Ansprüchen, so des Landes wie der Fürsten, in Einklang zu bringen suchen. Ich habe daher, um einen sicheren Anhalt für Meine Beurtheilung der streitigen Rechtsfragen zu gewinnen, die Syndici Meiner Krone, ihrem Berufe entsprechend, zu einem Rechtsgutachten aufgefordert. Meine rechtliche Ueberzeugung und die Pflichten gegen Mein Land werden Mich leiten bei dem Bestreben, Mich mit Meinem hohen Verbündeten zu verständigen, mit welchem Ich inzwischen den Besitz und die Sorge für eine geordnete Verwaltung der Herzogthümer theile. ¶ Es gereicht Mir zur lebhaften Befriedigung, dass die kriegerischen Verwickelungen auf den engsten Kreis beschränkt geblieben und die naheliegenden Gefahren, welche daraus für den Europäischen Frieden hervorgehen konnten, abgewendet worden sind. Die Wiederherstellung der diplomatischen Verbindung mit Dänemark ist eingeleitet und es werden sich, wie Ich fest vertraue, die freundlichen und gegenseitig fördernden Verhältnisse ausbilden, welche so sehr dem natürlichen Interesse beider Länder entsprechen. Meine Beziehungen zu allen übrigen Mächten sind in keiner Weise gestört worden und fahren fort, die glücklichsten und erfreulichsten zu sein. ¶ Meine Herren! Es ist Mein dringender Wunsch, dass der Gegensatz, welcher in den letzten Jahren zwischen Meiner Regierung und dem Hause der Abgeordneten obgewaltet hat, seine Ausgleichung finde. Die bedeutungsvollen Ereignisse der jüngsten Vergangenheit werden dazu beigetragen haben, die Meinungen über das Bedürfniss der verbesserten Organisation des Heeres, die sich in einem siegreich geführten Kriege bewährt hat, aufzuklären. Die Rechte, welche der Landesvertretung durch die Verfassungs-Urkunde eingeräumt worden sind, bin Ich auch ferner zu achten und zu wahren entschlossen. Soll aber Preussen seine Selbständigkeit

und die ihm unter den europäischen Staaten gebührende Machtstellung behaupten, so muss seine Regierung eine feste und starke sein, und kann sie das Einverständniss mit der Landesvertretung nicht anders als unter Aufrechthaltung der Heereseinrichtungen erstreben, welche die Wehrhaftigkeit und damit die Sicherheit des Vaterlandes verbürgen. Der Wohlfahrt Preussens und seiner Ehre ist Mein ganzes Streben, Mein Leben gewidmet. Mit dem gleichen Ziel vor Augen, werden Sie, wie Ich nicht zweifle, den Weg zur vollen Verständigung mit Meiner Regierung zu finden wissen, und werden Ihre Arbeiten dem Vaterlande zum Segen gereichen.

No. 2061. Preussen, 14. Jan. 1865.

No. 2062.

PREUSSEN. — Königl. Thronrede beim Schluss der Sitzung des Landtages am 17. Juni 1865, verlesen durch den Minister-Präsidenten v. Bismarck-Schönhausen. —

No. 2062. Preussen, 17. Juni 1865.

Erlauchte, edle und geehrte Herren von beiden Häusern des Landtages! — Des Königs Majestät haben mir den Auftrag zu ertheilen geruht, die Sitzungen der beiden Häuser des Landtages der Monarchie in Allerhöchstihrem Namen zu schliessen. ¶ In der abgelaufenen Sitzungsperiode verdankt das Land dem Zusammenwirken des Landtages mit der Regierung die Erneuerung des Deutschen Zollvereins, den Abschluss der Zoll-Verträge mit Frankreich und Oesterreich, mit England und Belgien, das neue Berggesetz, die Regulirung der Schlesischen Zehntverfassung, die bessere Versorgung der Militair-Invaliden, die Eisenbahn-Anlagen an der Jahde, in der Eifel und in Thüringen, sowie eine Anzahl anderer nützlicher und heilsamer Gesetze. ¶ Aber zu vollen und durchgreifenden Resultaten hätte das Zusammenwirken der Volksvertretung mit der Regierung nur dann führen können, wenn, auch den politischen Meinungskämpfen gegenüber, das Wohl des Vaterlandes oberstes Gesetz und höchste Richtschnur für alle Parteien geblieben wäre. So ist es nicht gewesen. Die deutlich ausgesprochene Absicht der Mehrheit des Abgeordnetenhauses, den gegenwärtigen Rathgebern der Krone Schwierigkeiten zu bereiten, hat zur Verwerfung der Wege-Ordnung, des Bankgesetzes, der Eisenbahn-Anlagen in Ostpreussen und dadurch zur Schädigung des materiellen Wohls des Landes geführt. ¶ Durch die Verwerfung des Militairgesetzes hat die unter der Mitwirkung früherer Landtage in das Leben gerufene und durch die kriegerischen Ereignisse des vorigen Jahres bewährte neue Heereseinrichtung, unter Gefährdung der äusseren Sicherheit des Landes, auf's Neue in Frage gestellt werden sollen. Das Haus der Abgeordneten versagt der Regierung die Mittel zur Herstellung einer den gegenwärtigen Verhältnissen und Bedürfnissen entsprechenden Kriegesflotte; es versagt ihr den von ihm verlangten Beistand zur Gewinnung der Früchte der mit so vielem, theuren Blute errungenen Siege des verflossenen Jahres. Ja, es hat sich von den glänzenden Thaten und Erfolgen der Armee losgesagt, indem es wie früher die geforderte Anleihe, so jetzt die nachträgliche Genehmigung der verausgabten Kriegskosten verweigert hat. ¶ Das Staatshaus-

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haltsgesetz, dessen Zustandekommen nach Art. 62 und 99 der Verfassungs-Urkunde von dem Zusammenwirken aller bei der Gesetzgebung betheiligten Factoren erwartet wird, ist auch in diesem Jahre an der Weigerung des Abgeordnetenhauses, die zur Aufrechthaltung des Heerwesens unerlässlichen Mittel zu bewilligen, gescheitert. ¶ Das Abgeordnetenhaus hat Forderungen verweigert, welche die Staatsregierung stellen musste; es hat Beschlüsse gefasst, welche die Regierung nicht ausführen kann. Statt mit der ersehnten Verständigung schliesst die Sitzung abermals unter dem Eindruck gegenseitiger Entfremdung der zum Zusammenwirken berufenen Kräfte. ¶ Sr. Majestät Regierung hat nur ein Ziel im Auge: die Wahrung der Rechte und der Ehre des Königs und des Landes, so wie sie verbrieft sind, so wie sie neben einander bestehen können und müssen. Dem Lande ist nicht gedient, wenn seine gewählten Vertreter die Hand nach Rechten ausstrecken, die ihre gesetzliche Stellung im Verfassungsleben ihnen versagt. Nur wenn sie diese Stellung dazu benutzen, mitzuarbeiten an dem von unseren Fürsten begonnenen und bisher durchgeführten Werke, Preussen, unter starken Königen, gross und glücklich zu machen, nur dann werden sie das Mandat erfüllen, welches des Königs Unterthanen in ihre Hände legen. ¶ Die Regierung Sr. Majestät ist bestrebt, das in gleichem Sinne ihr ertheilte Mandat ihres Königlichen Herrn nach Kräften auszuführen. Sie wird, unbeirrt durch feindseligen und masslosen Widerstand in Rede und Schrift, stark im Bewusstsein ihres guten Rechts und guten Willens, den geordneten Gang der öffentlichen Angelegenheiten aufrecht erhalten und die Interessen des Landes nach Aussen wie nach Innen kräftigst vertreten. Sie lebt der Zuversicht, dass der Weg, den sie bisher inne gehalten, ein gerechter und heilsamer gewesen ist, und dass der Tag nicht mehr fern sein kann, an welchem die Nation, wie bereits durch Tausende aus freier Bewegung kund gewordener Stimmen geschehen, so auch durch den Mund ihrer geordneten Vertreter ihrem Königlichen Herrn Dank und Anerkennung aussprechen werde. ¶ Dem Herrenhause habe ich im Namen Sr. Majestät Allerhöchstdessen Dank für die auch in dieser Session bewiesene Treue und Hingebung zu sagen. ¶ Im Allerhöchsten Auftrage Sr. Majestät des Königs erkläre ich hiermit die Sitzung der beiden Häuser des Landtages für geschlossen.

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PREUSSEN. — Königliches Handschreiben an das Staatsministerium, betreffend die Veröffentlichung des Staatshaushalts-Etats, mit dem vorausgegangenen Bericht des Staatsministeriums. —

Karlsbad, 5. Juli 1865.

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Da es nicht gelungen ist, ein Gesetz über den Staatshaushalt des Jahres 1865 mit dem Landtage zu vereinbaren, so bestimme Ich auf den Bericht des Staats-Ministeriums vom 4. Juli cr., dass die hierbei zurückerfolgende Nachweisung der für das laufende Jahr zu erwartenden Staats-Einnahmen und der zu leistenden Ausgaben als Richtschnur für die Verwaltung dienen soll. Zugleich

will Ich dem Marine-Minister hierdurch eine Summe bis zu 500,000 Thlr. zur Beschaffung von schweren Gussstahlgeschützen für die Flotte zur Verfügung stellen, über deren Verwendung, resp. Verrechnung Mir von dem Marine- und dem Finanz-Minister am Schlusse dieses Jahres Bericht zu erstatten ist. ¶ Diesen Erlass nebst Anlage und den vorliegenden Bericht hat das Staats-Ministerium durch den Staats-Anzeiger zur öffentlichen Kenntniss zu bringen.

Wilhelm.

von Bismarck. *von Bodelschwingh.* *von Roon.* Graf *von Itzenplitz.*
von Mühler. Graf *zur Lippe.* *von Selchow.* Graf *zu Eulenburg.*

An das Staats-Ministerium.

Nach dem Ergebnisse der über den Staatshaushalts-Etat für das Jahr 1865 in dem letzten Landtage stattgefundenen Verhandlungen ist das Staats-Ministerium leider wiederum nicht in der Lage, Ew. Königl. Majestät ein Etatsgesetz zur Allerhöchsten Vollziehung überreichen zu können. Die von dem Hause der Abgeordneten beschlossenen Abänderungen des von der Staats-Regierung vorgelegten Etats-Entwurfes greifen vielfach so tief in die Verwaltung ein, dass mit Berücksichtigung derselben die Ausführung des Etats, ohne wichtige Staats-Interessen zu schädigen, nicht möglich ist, und das Herrenhaus sich veranlasst gefunden hat, den Staatshaushalts-Etat, wie er aus den Beschlüssen des Abgeordnetenhauses hervorgegangen ist, abzulehnen. ¶ Das Staats-Ministerium hat bei dieser Sachlage in Erwägung ziehen müssen, nach welchen Normen im laufenden Jahre der Staatshaushalt zu führen sein wird, und verfehlt nicht, Ew. Königlichen Majestät in dem Nachstehenden seine desfallsigen Vorschläge zur Allergnädigsten Genehmigung zu unterbreiten. ¶ Nach den Beschlüssen des Hauses der Abgeordneten sollen die im Entwurfe zum Staatshaushalts-Etat berechneten Einnahmen in einzelnen Ansätzen um . . . . 1,303,410 Thlr.
erhöhet, in anderen dagegen um . . . . 511,788 „
ermässiget werden, so dass danach im Ganzen eine Erhöhung von . . . . 791,622 Thlr.
eintreten würde.

Von diesen Einnahme-Erhöhungen treffen:

a) auf die Forst-Verwaltung, und speciell auf die Einnahme für Holz . . . . 547,000 „

b) auf die Verwaltung für Berg-, Hütten- und Salinenwesen, und zwar:
auf die Bergwerke . . . . 400,000 „
auf die Bergwerksabgaben und Steuern . 50,000 „
und auf den Erlös für Producten- und Materialien-Vorräthe der veräusserten Saynerhütte . . . . 230,000 „

c) auf Einnahmen von Privat-Eisenbahnen, bei welchen der Staat betheiligt ist . . . . . 76,410 „

Sind wie oben . . . 1,303,410 Thlr.

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Die Einnahme-Ermässigungen vertheilen sich:

a) auf die Steuer vom inländischen Weinbau mit	70,000 Thlr.
b) auf die Bergwerke und Hütten mit . . .	420,357 „
und c) auf die eigenen Einnahmen der Militair-Verwaltung mit	21,431 „
Sind wie oben . . .	511,788 Thlr.

Alle diese Veränderungen in den Einnahme-Ansätzen des Etats-Entwurfes beruhen nach Inhalt der Verhandlungen der Budget-Commission des Abgeordnetenhauses im Wesentlichen darauf, dass bei Feststellung der bezeichneten Etatspositionen theils die Ergebnisse der Einnahme des Jahres 1864 mit zur Berechnung gezogen, theils Verhältnisse berücksichtigt worden sind, welche — wie der Verkauf der Saynerhütte nebst den dazu gehörigen Eisensteingruben bei Horhausen und die Aufhebung der Steuer vom inländischen Weinbau — erst nach Beginn des Etatsjahres und lange nach Aufstellung des Entwurfes zum Staatshaushalts-Etat eingetreten sind. ¶ Diesem Verfahren stehen die ernstesten Bedenken entgegen. ¶ Die Feststellung der Einnahmen in dem Entwurfe zum Staatshaushalts-Etat geschieht nach feststehenden gleichmässigen Grundsätzen, welche seit langen Jahren zur Anwendung gebracht und gebilligt worden sind, und welche sich im Interesse der Sicherheit der Finanz-Verwaltung bewährt haben. Dahin gehört namentlich, dass die ihrem Betrage nach nicht feststehenden Einnahmen nach dem Durchschnitts-Ertrage der vorhergehenden drei Jahre, soweit nicht besondere Umstände eine Abweichung rechtfertigen, in Ansatz gebracht werden, einerseits weil diese Einnahmen mannigfachen Schwankungen unterliegen, welche nur im Verlaufe mehrerer Jahre sich ausgleichen, andererseits weil dieselben den grössten Theil der Staats-Einnahmen bilden und bei ihrer Veranschlagung daher mit um so grösserer Vorsicht zu Werke gegangen werden muss. ¶ Nach diesen Grundsätzen sind auch die Einnahmen in dem Entwurfe zum Staatshaushalts-Etat für das Jahr 1865 veranschlagt worden. Da jedoch die Aufstellung dieses Etats bereits in der zweiten Hälfte des Jahres 1864 erfolgt ist und erfolgen musste, so war es unmöglich, bei den Ansätzen desselben schon auf die erst zu Anfang des Jahres 1865 festgestellten Rechnungs-Ergebnisse des Jahres 1864 und andere später eingetretene Veränderungen Rücksicht zu nehmen. ¶ Es liegt in der Natur der Verhältnisse, dass in einem Staate, dessen Bedürfnisse einen Aufwand von über 150 Millionen Thaler erfordern, welche Summe in zahlreichen, in ihrem Ertrage von den verschiedenartigsten Umständen abhängigen Einnahmequellen ihre Deckung finden soll, sowohl die Einnahmen als auch die Ausgaben dem Wechsel unterliegen und dass nicht erst nach dem Abschlusse des Etats, sondern schon während der Aufstellung desselben manche Veränderungen in den Einrichtungen und Bedürfnissen des Staats eintreten, welche auf die Höhe der Einnahmen und Ausgaben einen grösseren oder geringeren Einfluss üben, gleichwohl aber erst in dem nächsten Etat berücksichtigt werden können. Der Staatshaushalts-Etat kann daher sowohl in Einnahme, als auch in Ausgabe nur diejenigen Zustände darstellen, welche bei der Aufstellung desselben bekannt waren oder vorhergesehen werden konnten, und ebenso kann die Prüfung der Einnahmen Seitens des Landtages

auch nur von diesem Gesichtspunkte aus erfolgen, wie es auch bisher stets geschehen ist. ¶ Wenn es hiernach schon an sich nicht ausführbar erscheint, die, seit dem Abschlusse des Entwurfs zum Staatshaushalts-Etat bis zur Berathung desselben im Landtage, eintretenden Veränderungen in den Einnahmen und Ausgaben sämmtlich nachträglich festzustellen und in den Etat aufzunehmen, so kann es ebensowenig für zulässig erachtet werden, willkürlich einzelne Einnahme-Ansätze herauszugreifen und nach abweichenden Grundsätzen festzustellen. Insbesondere muss dieses Verfahren bei den Betriebs-Verwaltungen — Forsten und Bergwerken etc. — bedenklich erscheinen, weil bei diesen Verwaltungen nicht die Ueberschüsse, sondern die Brutto-Einnahmen in Ansatz gebracht werden und die Erhöhung der letzteren nothwendig eine entsprechende Erhöhung der Betriebsausgaben bedingt. ¶ Aus diesen Gründen und weil die Erhaltung der Ordnung und Sicherheit in den Finanzen nur dann als verbürgt angesehen werden kann, wenn die Einnahmen so vorsichtig veranschlagt werden, dass auf das Eingehen derselben in ihrem Gesammtbetrage mit Zuverlässigkeit gerechnet werden darf, müssen wir uns dagegen erklären, dass in dem Einnahme-Voranschlage für das Jahr 1865 die von dem Hause der Abgeordneten beschlossenen Zu- und Absetzungen berücksichtigt werden. Die eintretenden Veränderungen gegen den Voranschlag werden seiner Zeit, wie bisher, in der über den Staatshaushalt zu legenden Rechnung nachgewiesen werden und durch dieselbe zur Kenntniss und Prüfung des Landtags gelangen. ¶ Was die Ausgaben betrifft, so hat das Abgeordnetenhaus beschlossen, die von der Staats-Regierung in dem Etats-Entwurf beantragten Bewilligungen

im Ordinarium um . . . . 7,760,281 Thlr.
und
im Extraordinarium um . . . . . . 140,205 Thlr.

zu ermässigen, dagegen aber das Extraordinarium des Marine-Etats um . . . . 1,100,000 Thlr.
zu erhöhen. ¶ Nachdem das Herrenhaus den Etat, wie er aus den Beschlüssen des Abgeordnetenhauses hervorgegangen ist, verworfen hat, und der Erlass eines Etatgesetzes unmöglich geworden ist, sieht die Staats-Regierung sich genöthigt, die sämmtlichen Ausgaben auf ihre eigene Verantwortlichkeit leisten zu lassen. Für dieselbe kann sonach bei der Frage, inwieweit die in dem Etat angesetzten Ausgaben flüssig zu machen sein werden, nur die Erwägung leitend sein, ob und inwieweit die Leistung der Ausgaben zur Erfüllung rechtlicher Verpflichtungen des Staates, zur Erhaltung der bestehenden Staats-Einrichtungen, zur ordnungsmässigen Fortführung der Verwaltung und zur Förderung der Landeswohlfahrt erforderlich ist, zumal das Abgeordnetenhaus auch an seine zustimmenden Beschlüsse sich nicht für gebunden hält und solche daher einen Anhalt um so weniger überall gewähren, als dasselbe in diesem Jahre dazu übergegangen ist, auch solche dauernde Ausgaben zu versagen, welche von ihm früher wiederholt als nothwendig anerkannt und genehmigt worden sind. ¶ Wenngleich nach unserer Ueberzeugung in den, dem Landtage vorgelegten Etat nach gewissenhafter und sorgfältiger Prüfung nur solche Ausgaben aufgenommen worden sind, welche unter die vorbezeichneten Gesichtspunkte fallen, so haben wir uns doch

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der Aufgabe nicht entziehen zu dürfen geglaubt, diejenigen Ausgaben, für welche das Abgeordnetenhaus seine Zustimmung ausdrücklich abgelehnt hat, rücksichtlich ihrer Nothwendigkeit von Neuem zu prüfen. ¶ Wie vorgedacht, belaufen sich die derartigen Ausgaben im Ordinarium des Etats auf den Betrag von 7,760,281 Thlr., wovon 378,026 Thlr. in Betriebs-Ausgaben und 7,382,255 Thlr. in Staatsverwaltungs-Ausgaben bestehen. ¶ Von den Betriebs-Ausgaben treffen 373,026 Thlr. auf die Bergwerke und Hütten, und sind in Folge der Veräusserung der Saynerhütte und der Eisensteingruben bei Horhausen für entbehrlich erachtet. Da nach unserer, oben ausgeführten Ansicht kein zureichender Grund vorhanden ist, die Einnahme dieser Werke im Betrage von 420,357 Thlrn. im Etat abzusetzen, so ist auch die gegenüberstehende Ausgabe beizubehalten. Die letztere wird, insoweit sie nicht erforderlich ist, in der Rechnung als erspart verrechnet werden. Der Restbetrag von 5000 Thlrn. ist von den sächlichen Verwaltungs-Ausgaben bei den Ober-Bergämtern abgesetzt und wird, durch Beschränkung dieser Ausgaben, erspart werden. ¶ Die bei den Staats-Verwaltungsausgaben abgesetzten Beträge von zusammen 7,382,225 Thlr. bestehen:

a) in den Kosten der Armee-Reorganisation . . .	6,892,725 Thlr.
b) in den Geheimen Fonds für politische und höhere polizeiliche Zwecke	66,000 „
c) in dem Fonds zu unvorhergesehenen Ausgaben (Haupt-Extraordinarium der General-Staatskasse)	300,000 „
d) in den Besoldungen für 4 Brigadiers der Landgendarmerie . . . . und	6,558 „
e) in verschiedenen anderen kleineren Ausgaben von zusammen	116,972 „
Sind wie vor . . .	7,382,255 Thlr.

In Betreff der Kosten der Armee-Reorganisation (zu a.), welche seit dem Jahre 1862 von dem Abgeordnetenhause verweigert werden, dürfen wir uns auf die von Ew. Königlichen Majestät wiederholt gebilligte Erklärung beziehen, dass die Sicherheit des Landes und die Erhaltung seiner Machtstellung, die Aufrechterhaltung resp. Durchführung der in den Jahren 1860 und 1861 erfolgten inzwischen bewährten neuen Organisation der Armee unerlässlich erheischen. ¶ Die verhältnissmässig sehr geringen Mittel zu geheimen Ausgaben für politische und höhere polizeiliche Zwecke (zu b.), deren Bewilligung bis zum Jahre 1862 niemals versagt worden ist, sind zur heilsamen Fortführung der Verwaltung nothwendig und können nicht entbehrt werden. ¶ Nicht weniger ist dies der Fall bezüglich des Haupt-Extraordinariums der General-Staatskasse (zu c.), welches die Bestimmung hat, sämmtliche im Etat nicht vorgesehene und zu den einzelnen Titeln desselben nicht gehörige Ausgaben im Bereiche der ganzen Staats-Verwaltung zu übernehmen. Während das Abgeordnetenhaus in dem besonderen Etat der Hohenzollernschen Lande den ganz gleichen Fonds bei einer Gesammtausgabe von 464,200 Fl. mit 3935 Fl., also mit $0,_{85}$ pCt. ohne Anstand genehmigt hat, ist von demselben für die alten Lande bei einer Ge-

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sammtausgabe von 150,448,000 Thlr. dieser, 300,000 Thlr., also noch nicht $0{,}_{20}$ pCt. betragende Fonds aus dem Grunde von dem Etat abgesetzt worden, weil die unvorhergesehenen Ausgaben von dem Finanzminister ohne Bedenken auf seine Verantwortlichkeit geleistet und als Etats-Ueberschreitung nachgewiesen werden könnten. Dieser Grundsatz ist mit der Bestimmung des Etats, dass in demselben für alle Ausgaben die nöthigen Mittel vorgesehen werden sollen, um so weniger vereinbar, als erfahrungsmässig unvorhergesehene Ausgaben in jedem Jahre vorkommen, weshalb denn auch ein Fonds zur Deckung derselben im Etat bisher noch niemals verweigert worden ist. Die Beibehaltung dieses Fonds halten wir daher ebenfalls für geboten. ¶ Die unter d. gedachten 6558 Thlr. bestehen in Einkommensbezügen der Brigadiersstellen der 1., 2., 6. und 8. Gendarmerie-Brigade, welche von dem Abgeordnetenhause im Etat abgesetzt worden sind, weil dasselbe schon früher eine veränderte Organisation der Landgendarmerie beantragt habe und die erwähnten Stellen inzwischen zur Erledigung gekommen seien. Die Absetzung der letzteren verstösst geradezu gegen die noch in anerkannter Geltung bestehende Allerhöchste Verordnung über die anderweite Organisation der Landgendarmerie vom 30. December 1820 (Gesetz-Samml. de 1821, Seite 1), in welcher im § 3 wörtlich bestimmt ist: „Das Corps der Gendarmerie theilt sich in 8 Brigaden und jede Brigade in 2 Abtheilungen. Jeder Brigade steht ein Brigadier vor.“ ¶ Nach dieser Bestimmung war die Staatsregierung unzweifelhaft berechtigt, die erledigten Stellen wieder zu besetzen, zumal die Einkommensbezüge, welche in dem Etat für das Jahr 1865 für dieselben in Anspruch genommen sind, sich auf die Beträge beschränken, welche bereits der für das Jahr 1861 gesetzlich festgestellte Etat enthält. Der Beschluss des Abgeordnetenhauses verletzt demnach eine ausdrückliche Vorschrift des Gendarmerie-Edicts und ist zur Berücksichtigung nicht geeignet. ¶ Die unter e. bezeichnete Summe von 116,972 Thlr. besteht in einer grossen Zahl kleinerer Ausgaben, von welchen nach sorgfältiger Prüfung der einzelnen Posten die Summe von 54,867 Thlr., grösstentheils neue Besoldungen und Besoldungs-Erhöhungen, vorbehaltlich ihrer Wiederaufnahme in den nächsten Etat, für das laufende Jahr zurückgestellt werden sollen, und zwar:

bei dem Etat des Ministeriums der auswärtigen Angelegenheiten mit	33,000 Thlr.
„ „ „ „ Finanz-Ministeriums mit	11,700 „
„ „ „ „ Justiz-Ministeriums mit	900 „
„ „ „ „ Ministeriums des Innern	4,508 „
„ „ „ „ Ministeriums der geistlichen etc. Angelegenheiten	2,100 „
„ „ „ „ Kriegs-Ministeriums	1,955 „
„ „ „ „ Marine-Ministeriums	704 „
Sind wie vor . . .	54,867 Thlr.

Die übrigen 62,105 Thlr. dagegen sind nicht zu entbehren, theils weil sie Ausgaben zum Gegenstande haben, welche schon seit Jahren zahlbar sind, theils weil ihre Verwendung nach den obwaltenden Verhältnissen nicht zu vermeiden ist.

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Hiernächst zu den Ausgaben im Extraordinarium übergehend, bemerken wir allerunterthänigst, dass von den abgesetzten Beträgen dem Ressort des Justiz-Ministeriums . . . . 43,712 Thlr.
und
des Kriegs-Ministeriums . . . . 96,493 „
Sind . 140,205 Thlr.

angehören. ¶ Die im Bereiche des Justiz-Ministeriums abgesetzten Summen bestehen in Baukosten für Gerichts- und Gefängnissgebäude, welche bereits im Bau begriffen oder vollendet sind, und deren Ausführung von dem Abgeordnetenhause früher nicht beanstandet worden ist. Da die Fortsetzung dieser Bauten und die Befriedigung der Unternehmer ohne Nachtheil für die Staatskasse nicht unterbleiben darf, so kann auf diese Etatsansätze nicht verzichtet werden, zumal der für die Nichtbewilligung angeführte Umstand, dass die Baukosten zum Theil vorschussweise aus bereiten Mitteln gezahlt worden seien, nicht geeignet ist, die Absetzung zu rechtfertigen, weil die Vorschüsse aus Fonds geleistet worden, welche zu andern Zwecken bestimmt sind und den Ersatz nicht entbehren können. ¶ Von den im Ressort der Militair-Verwaltung verweigerten Beträgen von zusammen 96,493 Thlr. sind

zum Bau einer Cavallerie-Kaserne in Königsberg als erste Rate . . . . . 30,000 Thlr.
und
zum Bau eines Garnison-Lazareths in Jülich als erste Rate . . . . . . 25,000 Thlr.

bestimmt. ¶ Obwohl diese Bauten dringend nöthig sind und nach Lage der Verhältnisse ausgeführt werden müssen, so erachten wir es doch für angänglich, die Ausführung im laufenden Jahre auszusetzen und diese Beträge mit dem Vorbehalte aufzugeben, dieselben in den nächsten Etat von Neuem aufnehmen zu lassen. ¶ Die Verwendung der weiter abgesetzten 41,493 Thlr., bestehend in

9,000 Thlr. zum Wiederaufbau des abgebrannten Fourage-Magazins in Düsseldorf,
7,000 Thlr. zur ersten Einkleidung der den Unteroffizierschulen in Potsdam und Jülich hinzutretenden je 100 Zöglinge und
25,493 Thlr. als erste Rate zum Bau einer bombensichern Kaserne in Saarlouis,

ist dagegen zur Befriedigung dieser unaufschieblichen Bedürfnisse nicht zu umgehen. ¶ Nach diesen Vorschlägen haben wir die Einnahmen und Ausgaben, welche im Jahre 1865 resp. zu erwarten und zu leisten sein werden, in der ehrfurchtsvoll angeschlossenen Nachweisung anderweitig feststellen lassen, welche ergiebt, dass die Gesammt-Einnahmen 150,714,031 Thlr.
die Ausgaben, und zwar:
an fortdauernden . . 142,475,142 Thlr.
an einmaligen . . . 8,124,022 „
zusammen 150,599,164 „
betragen und dass demnach ein Ueberschuss von . . . . 114,867 Thlr.
verbleibt. ¶ Ew. Königliche Majestät bitten wir allerunterthänigst:

die vorbezeichnete Nachweisung als Richtschnur für die Verwaltung huldreichst genehmigen und gestatten zu wollen, dass dieselbe mit diesem Berichte durch den Staats-Anzeiger zur öffentlichen Kenntniss gebracht werde.

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Anlangend endlich den Beschluss des Abgeordnetenhauses, das Extraordinarium des Marine-Etats um

1,100,000, nämlich um

300,000 Thlr. zur Verstärkung der Fonds für den Bau des Jahdehafens,
500,000 Thlr. zur Beschaffung einer Panzerfregatte

und

300,000 Thlr. zur Beschaffung von schweren Gussstahl-Geschützen für die Flotte,

zu erhöhen, so tragen wir Bedenken, Ew. Königlichen Majestät Genehmigung zur Verwendung dieser Summen zu erbitten. Wenn wir es auch tief beklagen, dass das Abgeordnetenhaus sich bewogen gefunden hat, seine Zustimmung zu der durch eine besondere Gesetzesvorlage für die Marine beantragten Anleihe von 10 Millionen Thaler zu versagen und dass dadurch die den Wünschen und den wahren Interessen des Landes entsprechende schnellere Entwickelung unserer Marine gehemmt wird, so glauben wir doch aus überwiegenden Gründen gegen die Ausführung des vorerwähnten Beschlusses uns aussprechen zu müssen. ¶ Abgesehen davon, dass das Herrenhaus den von dem Abgeordnetenhause beschlossenen Etat abgelehnt hat, so ist auch in Betracht zu ziehen, dass selbst nach den Modificationen, welche wir vorstehend bezüglich der Ausgabe-Ansätze als zulässig bezeichnet haben, der Etat bei Weitem nicht die Mittel bietet, die gedachten 1,100,000 Thlr. zu decken und dass die Initiative bei Geldbewilligungen, wie es in der Natur der Sache liegt und der bisher beobachteten Praxis entspricht, allein der Staatsregierung vorbehalten bleiben muss. ¶ Gleichwohl ist es nach unserer Auffassung unerlässlich, die Befriedigung einzelner unabweisbarer Bedürfnisse der Flotte nicht länger auszusetzen. Dahin sind zu rechnen, die Beschaffung einer Panzerfregatte und der nöthigen Anzahl von schweren Gussstahlkanonen. Da in dem Etat zum Neubau von Schiffen 750,000 Thlr. ausgesetzt sind, so wird es möglich sein, durch eine, allerdings unerwünschte Beschränkung des Baues hölzerner Schiffe von diesem Betrage eine angemessene Summe dazu disponibel zu stellen, um eine Panzerfregatte in Bestellung geben und die nöthige Anzahlung leisten zu können, indem wir annehmen, dass die für diesen Zweck weiter erforderlichen Mittel im nächsten Jahre flüssig zu machen sein werden. ¶ Für Gussstahlgeschütze ist dagegen ein Etatsfonds nicht vorhanden. Nach erneuerter Erwägung des Bedürfnisses und im Hinblick auf die Interessen, welche Preussen in den Elbherzogthümern wahrzunehmen hat, haben wir indessen die Ueberzeugung gewonnen, dass es dringend geboten ist, mit der Beschaffung von Gussstahlgeschützen für die Flotte schleunigst vorzugehen, und letztere dadurch in den Stand zu setzen, ihrer Aufgabe als Kriegsflotte vollständiger als es jetzt möglich ist, zu genügen. ¶ Ew. Königl. Majestät bitten wir daher allerunterthänigst:

No. 2063. Preussen, 5. Juli 1865.

für den gedachten Zweck dem Marine-Minister eine Summe bis zu 500,000 Thlr. huldreichst zur Verfügung zu stellen.

Ueber die Verwendung derselben wird Ew. Königlichen Majestät der Marine-Minister in Gemeinschaft mit dem Finanz-Minister am Schlusse dieses Jahres Rechenschaft abzulegen und der Letztere zugleich wegen Verrechnung des verwendeten Betrages Vorschläge zu machen nicht verfehlen.

Berlin, den 4. Juli 1865.

Das Staatsministerium.

(gez.) *von Bismarck. von Bodelschwingh. von Roon. Graf Itzenplitz. von Mühler. Graf zur Lippe. von Selchow. Graf Eulenburg.*

An des Königs Majestät.

No. 2064.

PREUSSEN. — Verordnung, betreffend die definitive Erledigung der Vorbehalte wegen Bildung der Verbände des alten und des befestigten Grundbesitzes — Landschaftsbezirke — und wegen Wahl der Seitens dieser Verbände und der Provinzialverbände der Grafen zu präsentirenden Mitglieder des Herrenhauses. —

No 2064. Preussen, 10. Nov. 1865.

Wir Wilhelm, von Gottes Gnaden König von Preussen etc. Nachdem Wir beschlossen haben, die im § 6 der Verordnung wegen Bildung der Ersten Kammer vom 12. October 1854 (Gesetz-Samml. S. 541) gemachten Vorbehalte in Betreff der Bildung der Verbände des alten und des befestigten Grundbesitzes — Landschafts-Bezirke — so wie in Betreff der Ausübung des Präsentationsrechts Seitens dieser Verbände und der Provinzialverbände der Grafen definitiv zu erledigen und zu diesem Ende die hierüber in dem Reglement vom 12. October 1854 und in Unserem Erlasse vom 5. November 1861 ergangenen Bestimmungen zusammenzufassen und theilweise abzuändern, verordnen Wir an Stelle derselben auf Grund des Gesetzes, betreffend die Bildung der Ersten Kammer, vom 7. Mai 1853 (Gesetz-Samml. S. 181), was folgt:

§. 1. Für die nach der anliegenden Nachweisung zu bildenden Landschaftsbezirke des alten und des befestigten Grundbesitzes sind zur Präsentation zu wählen:

in der Provinz Preussen	18.
„ „ „ Brandenburg	15.
„ „ „ Pommern	13.
„ „ „ Schlesien	18.
„ „ „ Posen	7.
„ „ „ Sachsen	10.
„ „ „ Westphalen	4.
„ „ „ Rheinland	5.

§. 2. Zum alten Grundbesitze sind solche Rittergüter zu zählen, welche zur Zeit der Präsentation seit mindestens fünfzig Jahren im Besitze einer und derselben Familie sich befinden.

§. 3. Zum befestigten Grundbesitze gehören solche Rittergüter, deren Vererbung in der männlichen Linie durch eine besondere Erbordnung (Lehn, Majorat, Minorat, Seniorat, Fideicommiss, fideicommissarische Substitution) gesichert ist.

§. 4. Um an der Ausübung des Präsentationsrechts in den Landschafts-Bezirken, sowie in den Grafen-Verbänden Theil nehmen zu dürfen, sind die zur Mitgliedschaft des Herrenhauses nach §. 7 der Verordnung vom 12. October 1854 nothwendigen Eigenschaften mit der Massgabe erforderlich, dass ein Lebensalter von 25 Jahren genügt.

§. 5. Die Mitglieder des Herrenhauses mit erblicher Berechtigung nehmen an den Wahlen in den Verbänden der Grafen nicht Theil, ebensowenig an denen der Landschafts-Bezirke. Dagegen sind diejenigen Mitglieder der Grafenverbände, welche vermöge der Beschaffenheit ihres Rittergutsbesitzes zu den Wahlen in den Landschafts-Bezirken befähigt sind, berechtigt, auch an diesen Theil zu nehmen.

§. 6. Befindet sich ein Rittergut, dessen Besitz zur Theilnahme an den Wahlen in den Grafen-Verbänden oder Landschafts-Bezirken befähigt, im Mitbesitze mehrerer Personen, so haben dieselben bei der Wahl nur eine Stimme, wogegen jede von ihnen, unter Voraussetzung der übrigen Erfordernisse, wahlfähig ist.

§. 7. Wer vermöge seines Grundbesitzes in verschiedenen Grafen-Verbänden oder Landschafts-Bezirken zur Wahl berechtigt ist, hat die Befugniss an derselben in jedem dieser Verbände oder Bezirke Theil zu nehmen.

§. 8. Die Präsentationswahlen der Grafen-Verbände und der Landschafts-Bezirke sind auf Mitglieder des betreffenden Verbandes oder Bezirks zu richten.

§. 9. Bei dem Wahlverfahren sind die Vorschriften des Reglements über das Verfahren bei den ständischen Wahlen vom 22. Juni 1842 (Gesetz-Samml. S. 213) anzuwenden. Jedoch ist eine Präsentationswahl in Zukunft nur dann für gültig vollzogen zu erachten, wenn an derselben mindestens zehn zur activen Wahl befähigte Rittergutsbesitzer Theil genommen haben.

§. 10. Die Aufstellung und Fortführung der Verzeichnisse der Wahlberechtigten, die Festsetzung des Ortes und Tages der Wahl und die Ernennung des Wahlcommissars liegt den Oberpräsidenten ob.

§. 11. Sind in einem Landschafts-Bezirke weniger als zehn zur activen Wahl befähigte Besitzer vorhanden, so wählen dieselben, vereinigt mit dem vom Ober-Präsidenten zu bestimmenden nächsten Landschafts-Bezirke, in welchem sich mindestens zehn zur activen Wahl befähigte Besitzer befinden, nur die von dem letzteren zu präsentirende Anzahl von Mitgliedern.

§. 12. Abänderungen der gegenwärtigen Verordnung, sowie der Verordnung wegen Bildung der Ersten Kammer vom 12. October 1854, können gemäss Artikel 1 des Gesetzes, betreffend die Bildung der Ersten Kammer, vom 7. Mai 1853 fortan nur durch ein mit Zustimmung beider Häuser des Landtages der Monarchie zu erlassendes Gesetz vorgenommen werden.

No. 2064. Preussen, 10. Nov. 1865.

Urkundlich unter Unserer Höchsteigenhändigen Unterschrift und beigedrucktem Königlichen Insiegel.

Gegeben Berlin, den 10. November 1865.

(L. S.) **Wilhelm.**

Graf von Bismarck-Schönhausen. von Bodelschwingh. von Roon. Graf von Itzenplitz. von Mühler. Graf zur Lippe. von Selchow. Graf zu Eulenburg.

No. 2065.

PREUSSEN. — Königl. Thronrede bei Eröffnung des Landtags am 15. Jan. 1866, verlesen von dem Minister-Präsidenten Grafen von Bismarck-Schönhausen. —

No. 2065. Preussen, 15. Jan. 1866.

Erlauchte, edle und geehrte Herren von beiden Häusern des Landtages! — Se. Majestät der König haben mir den Auftrag zu ertheilen geruht, den Landtag der Monarchie in Allerhöchstihrem Namen zu eröffnen. ¶ In der letzten Sitzungsperiode ist wie in den Vorjahren in Ermangelung der nothwendigen Uebereinstimmung der Häuser des Landtages unter einander und mit der Krone das in Artikel 99 der Verfassungs-Urkunde vorgesehene Etatsgesetz nicht zu Stande gekommen. Es hat daher auch im abgelaufenen Jahre die Staatsverwaltung ohne ein solches Gesetz geführt werden müssen. ¶ Die Nachweisung der Einnahmen und Ausgaben, welche der Finanzverwaltung des verflossenen Jahres als Richtschnur gedient hat, ist amtlich zur öffentlichen Kenntniss gebracht worden. ¶ Der Staatshaushalts-Etat für das laufende Jahr wird dem Landtage unverweilt vorgelegt werden. Aus demselben werden Sie die Ueberzeugung gewinnen, dass unsere Finanzen sich fortdauernd in günstiger Lage befinden. ¶ Bei den meisten Verwaltungszweigen ist nach den bisherigen Erfahrungen eine Erhöhung der Einnahme-Ansätze zulässig gewesen, welche die Mittel geboten hat, im Etat die Befriedigung zahlreicher Mehrbedürfnisse vorzusehen und zur weiteren Verbesserung des Diensteinkommens der geringer besoldeten Beamtenklassen eine angemessene Summe zu bestimmen, ohne das Gleichgewicht zwischen Einnahme und Ausgabe zu stören. ¶ Den Häusern des Landtages wird, dem Vorbehalt im §. 8. des Grundsteuer-Gesetzes vom 21. Mai 1861 gemäss, der Entwurf eines das Werk der Veranlagung abschliessenden Gesetzes wegen definitiver Untervertheilung und Erhebung der Grundsteuer in den sechs östlichen Provinzen zur verfassungsmässigen Beschlussnahme vorgelegt werden. Die Arbeiten zur Ausführung des Grundsteuer-Entschädigungs-Gesetzes sind im eifrigsten Betriebe und steht zu erwarten, dass die Auszahlung der Entschädigungs-Capitalien noch im Laufe dieses Jahres wird erfolgen können. ¶ Die Lage der Finanzen gestattet es, den Gerichtskosten-Zuschlag allmälig zu ermässigen, um ihn nach Verlauf weniger Jahre ganz wegfallen zu lassen. Ein die Durchführung dieser Massregel bezweckender Gesetz-Entwurf wird Ihnen zugehen. ¶ Die wirthschaftlichen Zustände des Landes sind im Allgemeinen als befriedigend zu bezeichnen. Allerdings ist die letzte Ernte theilweis unge-

nügend ausgefallen, wenn aber einzelne Lebensbedürfnisse im Preise gestiegen sind, so genügt doch die freie Thätigkeit des Handels, mit Hülfe der erweiterten Communications-Mittel den in einigen Gegenden fehlenden Getreidebedarf zu ergänzen. Auch zeigt die Frequenz der Eisenbahnen, die Thätigkeit des Bergbaues, die Regsamkeit in den Gewerben und die durchweg den arbeitenden Klassen sich bietende Gelegenheit zur Beschäftigung für eine rüstig fortschreitende Entwickelung. Im Interesse derselben wird Ihre Mitwirkung in Anspruch genommen werden. Es werden Ihnen Vorlagen zugehen, welche den Zweck haben, die Leistungsfähigkeit einiger Staatsbahnen durch ausserordentliche Verwendungen sicher zu stellen, den Wirkungskreis der Preussischen Bank zu erweitern, und Beschränkungen aufzuheben, welche der freien Verwerthung der Arbeitskraft im Wege stehen. ¶ Die Handels- und Zoll-Verträge, welche in der verflossenen Sitzung einen Gegenstand Ihrer Berathungen bildeten, sind seitdem durch Erneuerung der Verträge mit Luxemburg, Anhalt und Bremen ergänzt worden. ¶ Mit Grossbritannien ist ein Schifffahrts-Vertrag, mit Italien ein Handels-Vertrag abgeschlossen, auf dessen Ratification von Seiten aller Zollvereins-Staaten die Regierung mit Zuversicht hofft. Die genannten Verträge werden Ihnen vorgelegt werden. ¶ Durch die Verordnung vom 10. November v. J. ist die Königliche Anordnung, durch welche die Bildung der Ersten Kammer zu erfolgen hatte, zum Abschluss gebracht, und sind dem Herrenhause die seiner Stellung im Staatsorganismus entsprechenden festen und nicht anders als durch Gesetz abzuändernden Grundlagen gegeben worden. ¶ Nach mehrjährigen fruchtlos gebliebenen Verhandlungen über Gesetzes-Vorschläge, welche eine Erleichterung und Abkürzung der Dienstzeit in der Landwehr, sowie eine gerechtere Vertheilung der Kriegsdienstpflicht überhaupt bezweckten, kann die Regierung Seiner Majestät des Königs von der Wiederholung solcher Vorschläge für jetzt ein erspriessliches Resultat nicht erwarten. Sie wird es daher bei den geltenden gesetzlichen Bestimmungen über die Verpflichtung zum Kriegsdienst einstweilen belassen müssen. Indem die Regierung diese ihr abgedrungene Entschliessung bedauert, bleibt sie von der Nothwendigkeit durchdrungen, die jetzige, unter Mitwirkung der früheren Landesvertretung ins Leben gerufene, seitdem praktisch bewährte und nach den bestehenden Gesetzen zulässige Einrichtung des Heerwesens aufrecht zu erhalten und die dazu nöthigen Geldmittel auch ferner zu fordern. ¶ Wie im Vorjahre, so hält auch jetzt die Regierung Seiner Majestät des Königs an dem Bestreben fest, die schnelle und kräftige Entwickelung der Preussischen Seemacht zu fördern. Für die Gründung angemessener Hafen-Etablissements, für die Beschaffung von Schiffen und deren Bewaffnung bleibt die Verwendung ausserordentlicher Mittel unerlässlich. Ein desfallsiger Gesetz-Entwurf wird daher dem Landtage von Neuem vorgelegt werden, zumal durch die inzwischen erfolgte Regelung der Besitzverhältnisse von Kiel die wesentlichsten der im vorigen Jahre der Vorlage entgegengestellten Bedenken ihre Erledigung gefunden haben. ¶ Die Beziehungen Preussens zu allen auswärtigen Staaten sind befriedigender und freundschaftlicher Natur. ¶ Nachdem durch den in Gastein und Salzburg abgeschlossenen Vertrag Seine Majestät der Kaiser von Oesterreich Seinen Theil an den Souveränetäts-Rechten über das

No. 2065. Preussen, 15. Jan. 1866.

Herzogthum Lauenburg an Seine Majestät den König abgetreten hat, ist dasselbe mit der Krone Preussen vereinigt worden, und es ist der Wille Seiner Majestät, dieses Herzogthum alle Vortheile des Schutzes und der Pflege, welche diese Vereinigung ihm bietet, unter Schonung seiner Eigenthümlichkeit, geniessen zu lassen. ¶ Die schliessliche Entscheidung über die Zukunft der anderen beiden Elbherzogthümer ist in demselben Vertrage einer weiteren Verständigung vorbehalten; Preussen aber hat in dem Besitz Schleswigs und der in Holstein gewonnenen Stellung ein ausreichendes Pfand dafür erhalten, dass diese Entscheidung nur in einer den Deutschen National-Interessen und den berechtigten Ansprüchen Preussens entsprechenden Weise erfolgen werde. ¶ Gestützt auf die eigene, durch das Gutachten der Kronsyndici bestärkte rechtliche Ueberzeugung ist Se. Majestät der König entschlossen, dieses Pfand bis zur Erreichung des angedeuteten Zieles unter allen Umständen festzuhalten und weiss Sich in diesem Entschlusse von der Zustimmung Seines Volkes getragen. ¶ Um die Ausführung des Canals vorzubereiten, welcher die Ostsee mit der Nordsee verbinden soll, beabsichtigt die Staatsregierung durch eine besondere Vorlage die Mitwirkung der Landesvertretung in Anspruch zu nehmen. Die Bedeutung, welche dieses Werk und mit ihm die Entwickelung der vaterländischen Seemacht für die Stellung Preussens und für deren Verwerthung im Gesammt-Interesse Deutschlands hat, verleiht der Regierung Sr. Majestät des Königs von Neuem die Zuversicht, dass bei Erwägung der betreffenden Vorlagen die Meinungsverschiedenheiten über innere Fragen und die Parteistellungen sich der Pflicht gegen das gemeinsame Vaterland unterordnen, und dass beide Häuser des Landtages der Krone einmüthig und rechtzeitig die Hand bieten werden, um die Lösung der nationalen Aufgaben fördern zu helfen, welche dem Preussischen Staate vermöge seiner Beziehungen zu den Elbherzogthümern in verstärktem Masse obliegen. ¶ Durch die den Hafen von Kiel betreffenden Bestimmungen des Gasteiner Vertrages ist der künftigen Deutschen Flotte der bisher mangelnde Hafen gesichert und wird es die Aufgabe der Preussischen Landesvertretung sein, die Staats-Regierung in die Lage zu versetzen, Verhandlungen mit ihren Bundesgenossen auf einer Preussens würdigen Unterlage eröffnen zu können. ¶ Im Laufe des verflossenen Jahres haben Se. Majestät der König in vier Provinzen die erneute Huldigung der Bewohner solcher Landestheile entgegengenommen, welche vor einem halben Jahrhundert mit der Preussischen Monarchie neu vereinigt oder ihr wieder gewonnen wurden. ¶ Der Geist, in welchem überall diese Jubelfeier begangen worden ist, hat Zeugniss gegeben von dem erhebenden Bewusstsein unseres Volkes, wie Grosses Gott an dem Preussischen Staate gethan, wie viel fortschreitende Entwickelung, wie viel Segen und Gedeihen auf allen Gebieten der öffentlichen Wohlfahrt unserem Vaterlande in jenem Zeitraume beschieden war. Mit Begeisterung hat die Bevölkerung jener Provinzen ihre Dankbarkeit für das treue, landesväterliche Walten unserer Fürsten bekundet und von Neuem gelobt, auch ihrerseits die Treue zu halten. In Dank gegen Gott und mit dem Gelöbniss, die glücklichen Zustände aller Landestheile auch fernerhin fördern zu wollen, haben Seine Majestät die erneute volle Zuversicht ausgesprochen, dass ein Band des Vertrauens Fürst und Volk für

jetzt und für alle Zukunft umschliessen, und dass über Preussen Gottes segnende Hand auch ferner walten werde. ¶ Die Regierung Seiner Majestät trägt das Bewusstsein in sich, dass ihr der Wille nicht fehlt, ihrem Königlichen Herrn nach diesem Seinem Sinne zu dienen. Sie lebt der Ueberzeugung, dass bei einer unbefangenen, leidenschaftslosen und rein sachlichen Prüfung dessen, was ihr zu erreichen vergönnt gewesen, wie dessen, was sie mit Hülfe der Landesvertretung noch erstrebt, genug der Zwecke und Ziele gefunden werden müssten, in denen alle Parteien sich eins wissen. ¶ Werden Sie, meine Herren, von dem Wunsch getragen, diese Einigungspunkte zu suchen und festzuhalten, so wird Ihren Berathungen Segen und Erfolg nicht fehlen. ¶ Und so erkläre ich im Allerhöchsten Auftrage Seiner Majestät des Königs den Landtag der Monarchie für eröffnet.

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No. 2065. Preussen, 15. Jan. 1866.

No. 2066.

FRANKREICH. — Kaiserliche Thronrede bei Eröffnung der Gesetzgebenden Körperschaften. —

No. 2066. Frankreich, 22. Jan. 1866.

Messieurs les Sénateurs, Messieurs les Députés, — L'ouverture de la session législative me permet périodiquement de vous exposer la situation de l'Empire et de vous exprimer ma pensée. Comme les années précédentes, j'examinerai avec vous les questions principales qui intéressent notre pays. ¶ *A l'extérieur*, la paix semble assurée partout, car partout on cherche les moyens de dénouer amicalement les difficultés, au lieu de les trancher par les armes. ¶ *La Réunion des flottes anglaise et française* dans les mêmes ports a montré que les relations formées sur les champs de bataille ne se sont pas affaiblies; le temps n'a fait que cimenter l'accord des deux pays. ¶ A l'égard *de l'Allemagne*, mon intention est de continuer à observer une politique de neutralité, qui, sans nous empêcher parfois de nous affliger ou de nous réjouir, nous laisse cependant étrangers à des questions où nos intérêts ne sont pas directement engagés. ¶ *L'Italie*, reconnue par presque toutes les Puissances de l'Europe, a affirmé son unité en inaugurant sa capitale au centre de la Péninsule. Nous avons lieu de compter sur la scrupuleuse exécution du traité du 15 septembre et sur le maintien indispensable du pouvoir du Saint-Père. ¶ Les liens qui nous attachent *à l'Espagne et au Portugal* se sont encore resserrés par mes dernières entrevues avec les Souverains de ces deux royaumes. ¶ Vous avez partagé avec moi l'indignation générale produite par *l'assassinat du président Lincoln*, et récemment la mort du roi des Belges a causé d'unanimes regrets. ¶ *Au Mexique*, le gouvernement fondé par la volonté du peuple se consolide; les dissidents, vaincus et dispersés, n'ont plus de chef; les troupes nationales ont montré leur valeur, et le pays a trouvé des garanties d'ordre et de sécurité qui ont développé ses ressources et porté son commerce avec la France seule de 21 à 77 millions. Ainsi que j'en exprimais l'espoir l'année dernière, notre expédition touche à son terme. Je m'entends avec l'empereur Maximilien pour fixer l'époque du rappel de nos troupes, afin que leur retour s'effectue sans compromettre les intérêts

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français que nous avons été défendre dans ce pays lointain. ¶ *L'Amérique du Nord*, sortie victorieuse d'une lutte formidable, a rétabli l'ancienne union et proclamé solennellement l'abolition de l'esclavage. La France, qui n'oublie aucune noble page de son histoire, fait des vœux sincères pour la prospérité de la grande République américaine et pour le maintien de relations amicales, bientôt séculaires. L'émotion produite aux États-Unis par la présence de notre armée sur le sol mexicain s'apaisera devant la franchise de nos déclarations. Le peuple américain comprendra que notre expédition, à laquelle nous l'avions convié, n'était pas opposée à ses intérêts. Deux nations également jalouses de leur indépendance, doivent éviter toute démarche qui engagerait leur dignité et leur honneur.

A l'intérieur, le calme, qui n'a pas cessé de régner, m'a permis d'aller visiter *l'Algérie,* où ma présence, je l'espère, n'aura pas été inutile pour rassurer les intérêts et rapprocher les races. Mon éloignement de la France a d'ailleurs prouvé que je pouvais être remplacé par un cœur droit et un esprit élevé. ¶ C'est au milieu de populations satisfaites et confiantes que nos institutions fonctionnent. *Les élections municipales* se sont faites avec le plus grand ordre et la plus entière liberté. Le maire étant dans la commune le représentant du pouvoir central, la Constitution m'a conféré le droit de le prendre parmi tous les citoyens. Mais l'élection d'hommes intelligents et dévoués m'a permis presque partout de choisir le maire parmi les membres des conseils municipaux. ¶ *La loi sur les coalitions*, qui avait fait naître quelques appréhensions, s'est exécutée avec une grande impartialité de la part du Gouvernement, et avec modération de la part des intéressés. La classe ouvrière, si intelligente, a compris que, plus on lui accordait de facilités pour débattre ses intérêts, plus elle était tenue de respecter la liberté de chacun et la sécurité de tous. L'enquête sur les sociétés coopératives est venue démontrer combien étaient justes les bases de la loi qui vous a été présentée sur cette importante matière. Cette loi permettra l'établissement de nombreuses associations au profit du travail et de la prévoyance. Pour en favoriser le développement, j'ai décidé que l'autorisation de se réunir sera accordée à tous ceux qui, en dehors de la politique, voudront délibérer sur leurs intérêts industriels ou commerciaux. Cette faculté ne sera limitée que par les garanties qu'exige l'ordre public. ¶ *L'état de nos finances* vous montrera que, si les recettes suivent leur progression ascendante, les dépenses tendent à décroître. Dans le nouveau budget les ressources accidentelles ou extraordinaires ont été remplacées par des ressources normales et permanentes; la loi sur l'amortissement, qui vous sera soumise, dote cette institution de revenus certains et donne des garanties nouvelles aux créanciers de l'État. L'équilibre du budget est assuré par un excédant de recettes. ¶ Pour arriver à ce résultat, des économies ont dû être imposées à la plupart des services publics, entre autres *au département de la guerre.* L'armée étant sur le pied de paix, il n'y avait que l'alternative de réduire ou les cadres ou l'effectif. Cette dernière mesure était irréalisable, car les régiments comptaient à peine le nombre nécessaire de soldats; le bien du service conseillait même de l'augmenter. En supprimant les cadres de 220 compagnies, de 46 escadrons, de 40 batteries, mais en versant les soldats dans les compagnies et escadrons restants, nous avons plutôt fortifié qu'affaibli nos ré-

giments. Gardien naturel des intérêts de l'armée, je n'aurais pas consenti à ces réductions si elles avaient dû altérer notre organisation militaire ou briser l'existence d'hommes dont j'ai pu apprécier les services et le dévouement. Le maintien à la suite de tous les officiers sans troupe ne compromet aucun avenir, et l'admission dans les carrières administratives des officiers et sous-officiers qui approchent de l'époque de leur retraite rétablira bientôt le mouvement régulier de l'avancement; tous les intérêts se trouveront ainsi garantis, et la patrie ne se sera pas montrée ingrate envers ceux qui répandent leur sang pour elle. ¶ *Le budget des travaux publics et celui de l'enseignement* n'ont subi aucune diminution. Il était utile de conserver aux grandes entreprises de l'État leur activité féconde et de maintenir à l'instruction publique son énergique impulsion. Depuis quelques mois, grâce au dévouement des instituteurs, 13,000 nouveaux cours d'adultes ont été ouverts dans les communes de l'Empire. ¶ *L'agriculture* a fait de grands progrès depuis 1852. Si en ce moment elle souffre de l'avilissement du prix des céréales, cette dépréciation est la conséquence inévitable de la surabondance des récoltes et non de la suppression de l'échelle mobile. Les transformations économiques développent la prospérité générale, mais elles ne peuvent pas prévenir des gênes partielles et des perturbations temporaires. J'ai pensé qu'il était utile d'ouvrir une sérieuse enquête sur l'état et les besoins de l'agriculture. Elle confirmera, j'en suis convaincu, les principes de liberté commerciale, offrira de précieux enseignements, et facilitera l'étude des moyens propres, soit à soulager les souffrances locales, soit à réaliser des progrès nouveaux. ¶ L'essor de *nos transactions internationales* ne s'est pas ralenti, et le commerce général, qui, l'année dernière, était de plus de 7 milliards, s'est accru de 700 millions. ¶ Au sein de cette prospérité toujours croissante, *des esprits inquiets,* sous le prétexte de hâter la marche libérale du Gouvernement, voudraient l'empêcher de marcher en lui ôtant toute force et toute initiative. Ils s'emparent d'une parole empruntée par moi à l'Empereur Napoléon I[er], et confondent l'instabilité avec le progrès. L'Empereur, en déclarant la nécessité du perfectionnement successif des institutions humaines, voulait dire que les seuls changements durables sont ceux qui s'opèrent, avec le temps, par l'amélioration des mœurs publiques. ¶ Ces améliorations résulteront de l'apaisement des passions et non de modifications intempestives dans nos lois fondamentales. Quel avantage peut-il y avoir, en effet, à reprendre le lendemain ce qu'on a rejeté la veille? La Constitution de 1852, soumise à l'acceptation du peuple, a entrepris de fonder un système rationnel et sagement pondéré sur le juste équilibre entre les différents pouvoirs de l'État. Elle se tient à une égale distance de deux situations extrêmes. Avec une chambre maîtresse du sort des ministres, le pouvoir exécutif est sans autorité et sans esprit de suite; il est sans contrôle, si la chambre élective n'est pas indépendante et en possession de légitimes prérogatives. Nos formes constitutionnelles, qui ont une certaine analogie avec celles des États-Unis, ne sont pas défectueuses parce qu'elles diffèrent de celles de l'Angleterre. Chaque peuple doit avoir des institutions conformes à son génie et à ses traditions. Certes, tout gouvernement a ses défauts, mais, en jetant un regard sur le passé, je m'applaudis de voir, au bout de quatorze ans, la France respectée au dehors,

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tranquille au dedans, sans détenus politiques dans ses prisons, sans exilés hors de ses frontières. ¶ N'a-t-on pas assez discuté depuis quatre-vingts ans les théories gouvernementales? N'est-il pas plus utile aujourd'hui de chercher les moyens pratiques de rendre meilleur le sort moral et matériel du peuple? Employons-nous à répandre partout, avec les lumières, les saines doctrines économiques, l'amour du bien et les principes religieux; cherchons à résoudre, par la liberté des transactions, le difficile problème de la juste répartition des forces productives, et tâchons d'améliorer les conditions du travail dans les champs comme dans les ateliers. ¶ Lorsque tous les Français, aujourd'hui investis des droits politiques, auront été éclairés par l'éducation, ils discerneront sans peine la vérité et ne se laisseront pas séduire par des théories trompeuses; lorsque tous ceux qui vivent au jour le jour auront vu s'accroître les bénéfices que procure un travail assidu, ils seront les fermes soutiens d'une société qui garantit leur bien-être et leur dignité; enfin, quand tous auront reçu, dès l'enfance, ces principes de foi et de morale qui élèvent l'homme à ses propres yeux, ils sauront qu'au-dessus de l'intelligence humaine, au-dessus des efforts de la science et de la raison, il existe une volonté suprême qui règle les destinées des individus comme celles des nations.

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AFFAIRES ÉTRANGÈRES.

AFFAIRES POLITIQUES.

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Durant la période qui a suivi le rétablissement de l'Empire, le Gouvernement de Sa Majesté a été amené à intervenir presque constamment dans les affaires européennes et à exercer largement son initiative pour assurer à la France le rang qui lui appartient. Aujourd'hui, dégagé des luttes diplomatiques, il peut librement consacrer ses soins à réaliser, dans l'ordre économique, les idées d'union et de progrès qu'il a inaugurées. Cette politique a été féconde en résultats dont les peuples sont appelés à recueillir le bienfait.

Tout en évitant de s'immiscer dans des débats où des intérêts français n'étaient point directement en cause, le Gouvernement de l'Empereur avait à s'occuper de différentes questions restées pendantes. Il les a suivies avec attention, et il a la confiance d'avoir, en toute circonstance, tenu la conduite et le langage les plus conformes aux principes que la France représente dans le monde.

La Convention conclue le 15 *septembre* 1864 *avec l'Italie* traçait aux deux puissances signataires des devoirs réciproques. Elle stipulait, d'autre part, en faveur du Saint-Siége, qui n'était pas intervenu dans les négociations, des facultés dont il pouvait user selon ses convenances. L'exécution de cet acte suit régulièrement son cours, et le Pape se montre disposé à profiter des garanties qui lui sont offertes.

La translation du Gouvernement italien s'est effectué sans difficulté, avec l'assentiment désintéressé des anciennes provinces piémontaises et aux applaudissements des provinces nouvelles du Royaume. Florence a été, dans les temps modernes, le vrai foyer de la renaissance nationale; par ses souvenirs comme par sa position, cette grande cité était naturellement désignée pour devenir la capitale de l'Italie. Le sentiment du pays à cet égard, aussi bien que le bon sens et la loyauté des hommes d'État, sont des gages de l'accomplissement des obligations contractées le 15 septembre.

Le Gouvernement du Roi Victor-Emmanuel ayant rempli la condition qui a été le point de départ de ces arrangements, le moment nous a paru venu de commencer l'évacuation du territoire pontifical. La rentrée successive de nos troupes par détachements avait toujours été considérée comme la combinaison la plus favorable pour le Saint-Siége. On évitait ainsi les secousses que leur retour simultané aurait pu produire. Cette mesure avait un autre avantage: en concentrant sur un certain nombre de points l'occupation française, et en laissant les provinces évacuées à la garde de l'armée pontificale, on l'habituait à se suffire à elle-même. Sa Sainteté a bien voulu apprécier ces dispositions, et Elle nous a fait remercier de la sollicitude qui les avait dictées.

Un premier détachement a quitté les États romains au commencement du mois de novembre, et nos garnisons se sont retirées des délégations de Velletri et de Frosinone, qui ont été remises à des troupes du Saint-Siége. La gendarmerie romaine, ainsi que les soldats des autres armes placés sur la frontière, ont déployé beaucoup d'énergie contre le brigandage, et des faits, déjà nombreux, attestent l'efficacité de leur surveillance.

La Cour de Rome s'occupe, en outre, d'augmenter l'effectif de son armée et de se mettre en état de pourvoir par elle-même au maintien de l'ordre intérieur sur tout son territoire. Nous lui avons offert notre concours pour faciliter le recrutement et l'organisation de ses forces.

Par l'article 4 de la Convention du 15 septembre, l'Italie s'est déclarée prête à prendre à sa charge une part proportionnelle de la dette des anciens États de l'Église. Le Gouvernement impérial désirait assurer à la Cour de Rome les bénéfices de cette clause. La difficulté consistait à trouver les termes d'un compromis qui n'impliquât dé la part du Pape aucune renonciation à ses précédentes réserves. Le Cabinet français a l'espoir d'arriver prochainement, avec le Cabinet de Florence, à une entente que le Saint-Siége pourra accepter sans aucun sacrifice pour sa dignité.

Tous les efforts de la France en Italie tendent à faire triompher les idées de conciliation entre le Gouvernement du roi Victor-Emmanuel et la Papauté. Ces deux Puissances ont donné une preuve de l'apaisement des esprits en entrant en négociations, sur l'initiative spontanée de Sa Sainteté, pour le règlement des affaires religieuses. Ces négociations n'ont pas eu, il est vrai, tous les résultats qu'elles avaient fait espérer d'abord. Elles ne sont pas cependant demeurées stériles, puisque les parties se sont entendues sur la rentrée de plusieurs évêques dans leurs diocèses. Sans intervenir dans ces pourparlers, nous ne pouvions que les encourager. Nous avons hautement applaudi à cette ten-

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tative des deux Cours italiennes pour débattre sans intermédiaire leurs intérêts communs.

En s'engageant par la Convention du 15 septembre à respecter l'indépendance de la Papauté, le Cabinet de Florence s'est acquis l'adhésion de ceux des Gouvernements catholiques, autres que l'Autriche, qui hésitaient encore à nouer des rapports diplomatiques avec lui. Rassurée par cette garantie dans son dévouement pour le Souverain Pontife, l'Espagne a reconnu le Roi Victor-Emmanuel. La Bavière a suivi cet exemple, et la Saxe, qui, de même que les Cours de Madrid et de Munich, est liée par la parenté avec les princes italiens dépossédés, a pris une résolution semblable. Ces rapports se trouvent consacrés par un traité de commerce qui vient d'être conclu entre le Zollverein et l'Italie. C'est un gage précieux pour la paix générale.

Si des liens semblables ne paraissent pas devoir s'établir encore entre l'Autriche et la Péninsule, les intérêts commerciaux peuvent cependant faire prévaloir l'idée d'arrangements qui, en améliorant les relations de voisinage, auraient, dès à présent, des effets utiles et ouvriraient dans l'avenir les voies à un rapprochement. Le Gouvernement de l'Empereur sera toujours disposé à seconder les efforts qui seront faits pour réaliser cette pensée, et il n'a point laissé ignorer aux parties intéressées que ses bons offices leur sont d'avance acquis.

On se rappelle que l'Autriche et la Prusse, *dans le traité signé à Vienne le* 30 *octobre* 1864, étaient convenues de gouverner en commun les territoires qui leur étaient cédés par le Danemark jusqu'à ce qu'elles fussent en mesure de s'entendre pour fixer le sort des duchés. Cette entente ayant tardé à s'établir, les deux Puissances ont jugé opportun de modifier le système d'administration qu'elles avaient d'abord adopté. Le gouvernement du Slesvig a été confié à la Prusse, et celui du Holstein à l'Autriche. Le caractère des stipulations de Gastein étant essentiellement provisoire, le Gouvernement de Sa Majesté fait des vœux pour que cette affaire se termine par un arrangement en harmonie avec les idées qu'il a émises antérieurement.

La politique suivie par la France aussi bien à l'égard du Danemark que de l'Allemagne a été appréciée comme elle devait l'être par ces Puissances elles-mêmes. Le Cabinet de Copenhague n'a point méconnu les considérations qui nous ont dirigés, et il a saisi toutes les occasions de rendre hommage à la loyauté de notre attitude pendant la guerre, comme à la bienveillance amicale de nos efforts pour en atténuer les conséquences. L'Allemagne, de son côté, a pu constater que, contrairement à d'anciens préjugés, nous n'étions animés envers elle d'aucun sentiment de mauvais vouloir, et nous n'avons qu'à nous louer des dispositions des divers États germaniques à notre égard, soit dans les questions que nous avons à traiter directement avec eux, soit dans les affaires générales.

Nos relations avec l'Empire turc sont telles que nous pouvons le désirer. Le Gouvernement ottoman fait de louables efforts pour améliorer l'administration et développer les ressources du pays. Nous l'encourageons à persévérer dans cette voie. Sauf sur quelques points reculés de l'Asie Mineure et de l'Arabie, la tranquillité publique n'a pas été troublée. Aucune difficulté nou-

velle n'est venue appeler l'attention des Puissances, et leurs représentants à Constantinople, divisés naguère par tant de causes de rivalité, ont pu se consacrer à l'examen paisible de questions déjà anciennes sur lesquelles des délibérations antérieures ont préparé les éléments de leur accord.

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Le Traité de Paris avait chargé une Commission, formée des délégués de toutes les Puissances signataires, de mettre *les embouchures du Danube,* ainsi que les parties de la mer Noire avoisinantes, dans les meilleures conditions possibles de navigabilité. Après neuf ans d'études et de travaux, les Commissaires sont parvenus à réglementer les différents services et à opérer dans le régime des eaux une série d'améliorations dont la marine marchande a déjà profité. Il était utile de déterminer par un acte public les droits et les obligations que le nouvel état de choses établi sur le bas Danube a créés pour tous les pavillons qui fréquentent ce fleuve. En conséquence, un arrangement a été conclu le 4 novembre dernier. Ces stipulations n'attendent plus que l'approbation des Puissances. Conformément au vœu du Traité du 30 mars 1856, leurs plénipotentiaires vont se réunir incessamment en conférence à Paris pour ratifier l'acte des Commissaires.

Dans les Principautés-Unies, il ne s'est produit, pendant le cours de l'année 1865, aucun fait qui ait nécessité l'intervention collective des Cours garantes. S'il s'est élevé quelques dissentiments entre le gouvernement moldo-valaque et la Porte, le Cabinet français s'est attaché à conseiller aux Principautés le respect des arrangements européens, qui sont la base des droits réciproques et la garantie des bonnes relations.

Les représentants à Constantinople des Cours qui ont participé à ces actes n'ont pu encore mener à leur terme les négociations relatives aux biens des couvents dédiés de la Moldavie et de la Valachie. Les parties intéressées ont été appelées à développer leurs explications devant une commission spéciale chargée d'examiner les titres de propriété et de fournir à la conférence les évaluations nécessaires pour servir de base à son arbitrage. Les Cabinets sont toutefois d'accord pour reconnaître que cette affaire doit recevoir une solution définitive, et ils admettent qu'elle doit être réglée d'après le principe d'une équitable et large indemnité.

A la suite du conflit qui a eu lieu en 1862 à Belgrade, et qui était une conséquence de la juxta-position de populations de religion différente, il a été convenu que les musulmans, dont les habitations étaient situées en dehors de la forteresse, céderaient leurs propriétés au gouvernement serbe. Ce gouvernement s'était engagé, de son côté, à payer une somme proportionnée à la valeur des maisons et des terrains qui seraient abandonnés. En vertu de cet accord, ménagé par les bons offices des Puissances garantes, les sujets respectifs qui ont eu à souffrir des événements de 1862 devaient être, en outre, indemnisés pour les dommages éprouvés dans cette circonstance. Le gouvernement ottoman et la Serbie se sont entendus directement pour fixer le montant des compensations réciproques.

Les rapports entre le Montenegro et la Turquie n'ont pas cessé d'être pacifiques depuis la lutte qui s'est terminée en 1862. Les Monténégrins

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ont toutefois réclamé, à plusieurs reprises, contre l'établissement d'un fort sur la frontière commune, et contre l'occupation d'un point situé sur leur territoire. Le Cabinet français a recommandé ces demandes à l'attention de la Porte. Il a reçu l'assurance qu'elles seraient examinées avec équité.

Le règlement organique du Liban, tel qu'il a été modifié en 1864, est appliqué selon le vœu des Puissances. Le gouverneur général a récemment obtenu, avec le concours de l'ambassade française, de nouveaux et importants avantages. Il restera juge des conditions auxquelles devra être subordonnée la rentrée dans le Liban des chefs druses compromis dans les événements de 1860 et amnistiés en 1865. Les ressources dont il dispose ont été augmentées, en même temps que des arriérés d'impôts lui ont été remis pour être employés à des travaux d'utilité publique. Enfin un nouveau district chrétien, formé d'une partie de la Bekaa, principalement habitée par des Maronites, a été rattaché à l'administration de la Montagne.

Les négociations relatives à l'entreprise formée pour *le percement de l'isthme de Suez* ont été poursuivies dans un esprit mutuel de conciliation, et elles paraissent toucher à leur terme. La sentence arbitrale de l'Empereur, en date du 6 juillet 1864, a eu pour effet d'écarter les difficultés qui s'étaient élevées entre le vice-roi d'Égypte et la Compagnie. La Porte avait, de son côté, reconnu sans hésiter que, par cet acte, les conditions auxquelles la Turquie avait subordonné son acquiescement se trouvaient remplies. Il ne s'agissait donc plus que de rédiger le nouveau contrat qui doit être signé par le vice-roi et la compagnie, et auquel le sultan a promis de donner sa sanction. L'ambassadeur de l'Empereur à Constantinople, après avoir eu connaissance des observations des deux parties, a préparé, conformément à ses instructions, et de concert avec les ministres ottomans, un projet de nature a satisfaire tous les intérêts. Il a été en même temps convenu que la France, la Turquie, le vice-roi d'Égypte et le conseil d'administration de la compagnie universelle, désigneraient chacun un commissaire pour déterminer les terrains nécessaires à la bonne exploitation de l'entreprise, qui, suivant les dispositions de la sentence, doivent être attribués à la compagnie pendant la durée de la concession. Ces commissaires ont été nommés et doivent se réunir en Égypte dans le courant de janvier. Tout fait espérer que l'accord s'établira aisément entre eux sur les questions techniques qu'ils ont à résoudre. Le vice-roi se montre résolu à seconder l'achèvement de cette entreprise en donnant toute l'activité désirable aux travaux du canal d'eau douce.

Les désordres qui ont éclaté dans *la Régence de Tunis*, il y a deux ans, avaient fait naître des difficultés sur lesquelles le Gouvernement de l'Empereur a exprimé son opinion dans des dépêches communiquées l'année dernière aux grands Corps de l'État. Elles ont mis suffisamment en lumière l'intérêt que nous devons attacher au maintien de l'autonomie de la Régence, consacrée par une tradition aujourd'hui séculaire. Le Cabinet français a la confiance que ces considérations ont été comprises par le Bey comme par la porte Ottomane, et qu'aucune atteinte ne sera portée au *statu quo*.

A la suite de divers incidents qui semblaient dénoter du mauvais vouloir envers des sujets français et des Algériens dont la nationalité ne pouvait

être douteuse, des réclamations ont dû être adressées au gouvernement du Bey. Son Altesse s'est empressée de faire droit à nos plaintes. Le Prince qui règne à Tunis, en suivant la politique de ses prédécesseurs à l'égard de la France, pourra toujours compter sur la bienveillance du Gouvernement impérial. L'Empereur en a renouvelé l'assurance à l'envoyé que le Bey avait chargé d'aller complimenter Sa Majesté en Algérie.

L'Empereur a reçu également, pendant son voyage, les compliments du souverain dont les États bornent à l'ouest nos possessions africaines. Non-seulement il n'existe entre les deux Empires aucun élément de désaccord, mais le Gouvernement impérial et celui du Sultan Sidi-Mohammed entretiennent les rapports les plus satisfaisants, et Sa Majesté Schériffienne, en envoyant une ambassade à Paris, vient de donner un nouveau témoignage du prix qu'elle attache à les maintenir.

Pendant que les affaires de l'Orient tendent de plus en plus à s'améliorer, *la Grèce* redevient un sujet de préoccupations pour les Cabinets. On avait espéré que, sous les auspices d'un jeune souverain appelé par le vœu national, le pays allait inaugurer une ère nouvelle. Mais les agitations stériles ont survécu à la crise révolutionnaire. Les trois Cours protectrices sont convenues d'inviter leurs représentants à Athènes à appeler la sérieuse attention des hommes politiques de la Grèce sur les dangers que leurs luttes personnelles et l'anarchie qui en est la conséquence font courir au pays. Espérons que l'appel adressé à leur patriotisme sera entendu, et que ces sages conseils feront cesser ùn état de choses qui, en empêchant la nouvelle royauté de s'affermir, pourrait amener en Grèce les complications les plus regrettables.

De grands changements sont survenus, l'année dernière, dans l'ensemble *de la situation des États-Unis*. En présence du conflit engagé entre le Nord et le Sud, nous nous étions vus, comme les autres Puissances maritimes, dans la néçessité de reconnaître l'existence de deux belligérants et de constater ce fait par une déclaration publique. Dès qu'il a été certain que l'Union renonçait à se prévaloir des lois de la guerre pour visiter les navires neutres, nous nous sommes empressés de révoquer les mesures qui étaient la conséquence de notre neutralité. Le succès complet des forces fédérales a fait rentrer dans l'Union tous les États qui avaient tenté de s'en séparer. A partir de ce moment, la sollicitude du Cabinet de Washington s'est portée sur les moyens de réparer les calamités d'une crise aussi profonde. Nous avions appelé de nos vœux les plus constants la pacification des États-Unis; nous nous sommes réjouis de voir cesser l'effusion d'un sang généreux. Aujourd'hui nous souhaitons que ce grand pays se réorganise promptement dans les conditions les plus propres à assurer sa tranquillité future et à favoriser la reprise et le développement des importantes relations commerciales qu'il entretient avec le monde entier. Ces heureux événements ont été attristés par un crime odieux qui est venu frapper de stupeur le peuple américain. Le Gouvernement de l'Empereur, le Sénat et le Corps législatif, dans leur dernière session, la France entière, se sont associés à ce deuil public des États-Unis. Tant de souffrances et de sacrifices ne sont point demeurés inutiles pour la civilisation. L'esclavage a été aboli en droit comme de fait sur

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tout le territoire fédéral. L'amendement constitutionnel destiné à consacrer cette grande mesure, après avoir été adopté par les trois quarts des États, a été solennellement proclamé. En répondant à la communication officielle qui lui a été adressée à ce sujet par M. le Ministre des États-Unis, le Cabinet français a sincèrement applaudi aux sentiments qui ont inspiré une résolution si conforme à l'initiative que nous avons prise nous-mêmes dans nos colonies.

Lorsque le Gouvernement de l'Empereur a entrepris *l'expédition du Mexique*, il s'est assigné un but auquel il a subordonné sa conduite dès le principe et d'où dépendent encore aujourd'hui ses décisions. Depuis nombre d'années nos nationaux avaient eu constamment à souffrir d'actes de violence et de pillage commis avec la complicité évidente d'agents de l'autorité mexicaine. Nous nous sommes trouvés dans la nécessité de déclarer la guerre. L'anarchie, devenue l'état normal du Mexique, était depuis long-temps, le sujet des réflexions d'hommes considérables, qui déploraient la dissolution croissante de leur pays. Désespérant de rétablir l'ordre dans les conditions du régime alors existant, ils entretenaient la pensée dé revenir à la monarchie dont le Mexique indépendant a fait un premier essai en 1822. Ils avaient reçu, il y a plus de dix ans, les encouragements du chef même qui était alors à la tête de la république mexicaine. Ils ont pensé que le moment était venu de faire un appel au pays. Le Gouvernement de Sa Majesté n'a pas cru devoir leur refuser ses sympathies; mais nous étions allés au Mexique en vue de poursuivre les réparations que nous avions à exiger, et non dans une pensée de prosélytisme monarchique. Sa Majesté a déclaré elle-même, dans une lettre adressée au commandant en chef de notre armée, après la prise de Puebla, qu'il n'appartenait qu'aux populations de se prononcer sur la forme des institutions qui pouvaient leur convenir. Nos troupes ne sont donc point au Mexique à titre d'intervention. Le Gouvernement impérial a constamment repoussé cette doctrine comme contraire au principe fondamental de notre droit public. Nous avions porté nos armes dans ce pays en vertu du droit de guerre, et nous y sommes restés, jusqu'à ce moment, afin d'assurer les résultats de la guerre, c'est-à-dire d'obtenir les garanties et les sécurités que réclament les intérêts de nos nationaux. Le Mexique est gouverné aujourd'hui par un pouvoir régulier, qui se montre jaloux de remplir ses engagements et de faire respecter sur son territoire les personnes et les biens des sujets étrangers. Lorsque les arrangements nécessaires auront été conclus avec l'empereur Maximilien, loin de décliner les conséquences de nos principes en matière d'intervention, nous serons prêts à les accepter comme une règle de conduite pour toutes les puissances. Il nous sera facile alors de préciser l'époque à laquelle pourra s'effectuer la rentrée en France de la portion du corps expéditionnaire maintenue jusqu'ici sur le sol mexicain.

Les documents relatifs à cette affaire seront ultérieurement communiqués aux grands corps de l'État.

Des discussions, depuis long-temps pendantes, entre *l'Espagne et la République du Chili*, ont amené une rupture dont le commerce s'est vivement ému. Le Cabinet de Madrid ayant accepté les bons offices de la France et de l'Angleterre pour l'aplanissement du différend, des instructions ont été adressées

en conséquence aux agents diplomatiques des deux Cours à Santiago, et nous aimons à espérer que, par leurs efforts conciliants, ils parviendront à rétablir les relations amicales entre l'Espagne et le Gouvernement chilien.

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Le bassin de la Plata a été le théâtre d'hostilités nouvelles. A la lutte engagée d'abord entre le Brésil et l'Uruguay a succédé une guerre dans laquelle ces deux États font cause commune avec la Confédération argentine contre le Paraguay. Le dénouement en est encore incertain; mais il résulte d'assurances données par les États alliés que leur but n'est pas d'apporter un changement quelconque aux délimitations territoriales. Bien que nos nationaux aient eu à souffrir, sur quelques points, des conséquences inévitables de la guerre, il est juste de reconnaître que les parties belligérantes ont montré le désir de ménager autant que possible les intérêts des neutres. Nous nous sommes, d'un autre côté, entendus avec le Gouvernement britannique pour garantir, au milieu du conflit, le principe de la libre navigation du Rio de la Plata et de ses affluents, stipulé dans les traités de 1853.

Depuis que nous avons porté notre drapeau dans la capitale *de la Chine*, nos rapports avec cet empire sont devenus l'objet constant de la sollicitude du Gouvernement français. Si nous avons eu de nouveau à déplorer la mort d'un de nos missionnaires, qui a péri victime de son dévouement et de son zèle, nous ne saurions attribuer ce triste événement au mauvais vouloir de la cour de Pékin, mais plutôt aux difficultés qu'elle éprouve trop souvent à se faire obéir dans les provinces éloignées de l'Empire, et aussi aux rivalités des fonctionnaires préposés à l'administration de ces provinces. Dans ces derniers temps, en effet, le Gouvernement chinois, en accueillant les réclamations que nous avons eu à lui présenter au sujet de nos missions, nous a donné des preuves de son intention d'exécuter les traités conclus avec nous.

Au Japon, les négociations que nous suivons depuis l'année dernière nous ont permis de constater, de la part du cabinet de Yeddo, une appréciation de plus en plus éclairée des avantages que lui offrent les rapports avec les étrangers. Le Gouvernement du Souverain temporel s'efforce de triompher de l'opposition que de puissants feudataires font à cette politique, et, grâce à ses démarches, secondées par les agents des Puissances, nos traités viennent de recevoir la consécration du Souverain spirituel. On espère que l'exemple donné ainsi par l'autorité religieuse exercera la plus salutaire influence sur les princes féodaux qui, jusqu'ici, se couvraient de son nom pour appuyer leur résistance.

Le Gouvernement de l'Empereur avait jugé indispensable à la sécurité de nôtre établissement *en Cochinchine* que le Cambodge fût placé, comme il le sollicitait, sous le protectorat de la France. La reconnaissance de ce protectorat par le royaume de Siam, qui prétendait autrefois, simultanément avec l'Empire annamite, à un droit de suzeraineté sur le Cambodge, a ajouté une garantie nouvelle à celles qui assurent déjà la stabilité et l'avenir de notre colonie.

Parmi les affaires d'un ordre pratique qui intéressent les peuples dans les rapports de chaque jour, le Gouvernement de l'Empereur n'oublie pas que *les correspondances internationales* de toute nature tiennent une place importante. De nombreuses améliorations ont pu être introduites, en 1865, dans nos

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relations postales avec la Suisse, la Belgique, la Prusse, les États Romains et le Portugal.

Procurer au public toutes les facilités et toutes les économies compatibles avec une bonne organisation du service, tel est le but de nos traités. C'est ainsi que le poids des lettres simples a été porté de sept grammes et demi à dix grammes, en même temps que la taxe a été diminuée aussi bien sur les lettres que sur des objets qui, comme les papiers d'affaires et les échantillons de marchandises, avaient été, jusqu'ici, passibles de la taxe des lettres. Le Gouvernement français s'est aussi occupé des envois de sommes d'argent d'un pays à l'autre au moyen de mandats de poste. L'expérience a prouvé les heureux effets de ce genre d'échanges qui avait été inauguré avec l'Italie, et qui, depuis, a pris un développement considérable.

Le traité avec la Prusse a eu ce résultat important de nous permettre de correspondre en paquets clos avec la Russie par l'intermédiaire des postes prussiennes, faculté dont nous ne jouissions pas encore.

Un acte additionnel à la Convention de poste du 1er avril 1853 *a été signé à Rome* le 11 juillet dernier. Il contient des réductions de taxe tant sur les lettres dont le poids est porté à dix grammes que sur les journaux, les imprimés et les échantillons de marchandises. Le moment où cette convention entrera en vigueur n'est pas encore fixé, par des causes indépendantes du service français.

Les négociations ouvertes depuis plus de quinze années avec *le Gouvernement portugais*, dans le but de régulariser les relations postales si défectueuses entre les deux pays, ont enfin abouti à un résultat favorable. Un traité a été signé à Paris le 24 décembre dernier. L'affranchissement des lettres deviendra facultatif, et la taxe qui leur sera applicable ne dépassera pas 40 centimes. D'autres dispositions règlent l'échange des imprimés, des journaux et des échantillons de marchandises aux mêmes conditions que pour les pays auxquels nous lient des conventions de poste.

Des pourparlers sont engagés avec la Russie, la Suède, la Norvége, le Danemark, l'Espagne et le Mexique.

La convention projetée avec les Pays-Bas, et sur les bases de laquelle on était tombé d'accord de part et d'autre, n'a pu, jusqu'ici, recevoir son exécution, parce que les Chambres néerlandaises n'ont pas ratifié l'engagement pris par le Gouvernement de supprimer le droit de timbre sur les journaux.

Il nous reste à parler, en terminant, d'une question de jurisprudence internationale qui s'est élevée au sujet *de la convention d'extradition conclue entre la France et l'Angleterre* en 1843. Cet acte restant inexécuté en Angleterre, le Cabinet français s'est décidé à le dénoncer. Toutes les fois que nous avons été dans le cas de lui adresser des demandes d'extradition, le Gouvernement de la Reine nous a prêté son concours dans la limite de ses pouvoirs. Les difficultés contre lesquelles nos démarches ont constamment échoué sont inhérentes aux clauses mêmes du traité dans leurs rapports avec les lois et l'organisation judiciaire de la Grande-Bretagne. Les considérations politiques sont demeurées absolument étrangères aux communications qui, depuis long-temps

déjà, ont été échangées à ce sujet entre les deux Cabinets. En outre, aucun dissentiment n'existe sur le principe même de l'extradition pour les individus accusés de crimes communs contre les propriétés et les personnes. Nous avons donc la confiance que le Gouvernement de Sa Majesté Britannique examinera cette question avec le désir sincère de rendre possible un arrangement qui nous assure les avantages d'une entière réciprocité. Sur ce point comme sur tous les autres, les différentes législations tendent de plus en plus à se rapprocher et à réunir tous les peuples dans une pensée commune de protection et de garantie mutuelles.

AFFAIRES COMMERCIALES.

Ce qui caractérise la politique commerciale de l'Empire, c'est la puissance d'expansion qu'elle possède. Rompant avec des traditions étroites, elle a substitué à l'esprit exclusif des anciens systèmes le sentiment de la solidarité, et provoqué, par son exemple, les autres États de l'Europe à se rencontrer et à s'unir sur le terrain des intérêts économiques. Loin d'assister, d'un œil inquiet et jaloux, au spectacle de ces alliances, la France les a souhaitées et, à l'occasion, facilitées. C'est ainsi que son influence, sans s'imposer inopportunément, n'a pas été étrangère au rapprochement, presque inespéré, qui vient de s'opérer entre l'Italie et l'Allemagne, rapprochement qui, en donnant au commerce et à l'industrie des deux peuples une satisfaction vivement désirée, a préparé leur accord sur des questions d'un autre ordre. Le Gouvernement de l'Empereur ne peut voir qu'avec plaisir le régime conventionnel, dont il a lui-même posé les bases, présider aux rapports nouveaux qui vont s'établir entre le Zollverein et les États du roi Victor-Emmanuel. Il n'applaudit pas moins à la conclusion de l'arrangement que les plénipotentiaires de l'Angleterre et de l'Autriche ont signé, ces jours-ci, à Vienne, et dans lequel il retrouve la pensée dont se sont inspirés, en 1860, les négociateurs de notre traité avec la Grande-Bretagne. Il n'est pas un de ces contrats internationaux qu'il n'accueille comme un progrès vers cette grande et pacifique confédération des intérêts économiques qui, depuis la réforme de notre législation douanière, a cessé d'être une utopie.

Si, après ce coup d'œil général, nous passons à l'examen des actes qui intéressent plus spécialement la France, nous avons à signaler, dans l'année qui vient de s'écouler, la mise en vigueur de six traités de commerce et de navigation, et l'ouverture de deux négociations importantes.

Le traité conclu, en 1862, avec *le Zollverein,* reçoit enfin son exécution depuis le 1er juillet 1865. Nous ne reviendrons pas sur les causes et les incidents de diverse nature qui l'ont si long-temps retardée. Nous nous abstiendrons également de reproduire l'analyse, déjà donnée par nos Exposés antérieurs, des arrangements de Berlin. Nous aimons mieux nous féliciter de voir les relations commerciales des deux pays, un moment compromises par une incertitude regrettable, placées désormais sous la garantie de stipulations précises qui en assurent le libre et régulier développement.

C'est du même jour que date la mise en vigueur des traités signés, le 30 juin 1864 avec *la Suisse,* le 4 mars 1865 avec *les Villes Anséatiques*, le

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9 juin de la même année avec *le Mecklenbourg*. Ces divers actes, consacrant un régime analogue à celui dont sont appelés à jouir, en France, le commerce et la navigation du Zollverein, devaient recevoir simultanément leur application.

L'exécution des traités conclus entre la France et les royaumes unis *de Suède et de Norvége* en a suivi de près la signature. Les Hautes Parties contractantes se sont montrées justement désireuses d'assurer à leurs sujets respectifs la prompte jouissance des avantages stipulés en leur faveur. En Suède, ces avantages ont été contestés par les partisans assez nombreux que compte encore le système prohibitif. Il n'est pas douteux que le gouvernement du roi Charles XV, auquel on ne saurait contester sérieusement le droit de ratifier les actes conventionnels qui n'entraînent pas des aggravations de tarifs, ne finisse par triompher d'une opposition dont il ne nous appartient de rechercher ni le mobile ni le but.

On sait que les résultats de la négociation commerciale engagé l'année dernière avec *le gouvernement des Pays-Bas* étaient subordonnés au remaniement du système d'accise en Hollande et du régime colonial des Indes néerlandaises. Les États généraux ayant sanctionné ces grandes réformes, le traité signé à la Haye, le 7 juin 1865, a pu entrer en vigueur le 1er septembre suivant.

En résumé, six pays ou groupes d'États nouveaux, le Zollverein, les Villes Anséatiques, les grands-duchés du Mecklenbourg, la Suède et la Norvége, la Suisse, les Pays-Bas, sont venus participer, pendant le cours de l'année dernière, au bénéfice de notre régime conventionnel, que complètent successivement les concessions ou les franchises accordées à chaque puissance. C'est ainsi que le pavillon des Pays-Bas peut désormais importer directement en France les produits des colonies néerlandaises dans les conditions exclusivement réservées jusqu'à ce jour aux importations directes de la métropole. Une dépêche du ministre des affaires étrangères, en date du 1er septembre 1865 fait ressortir la valeur des compensations qui nous ont déterminés à déroger, en faveur de la Hollande, à notre législation maritime. Nous avons obtenu, d'une part, de sérieuses réductions sur les principaux articles de notre commerce à Java et Sumatra, et la suppression des taxes différentielles qui frappaient notre pavillon dans son intercourse avec les colonies. En outre, le Gouvernement des Pays-Bas a consenti à substituer aux taxes diverses et très-nombreuses qui grevaient les vins français sur son territoire continental, un droit unique et sensiblement réduit, dont l'application favorisera sans aucun doute le développement de l'exportation de nos produits vinicoles. Ces concessions réciproques forment un ensemble de facilités destinées à donner une impulsion nouvelle aux relations de la France avec un pays voisin, puissant par sa richesse et son esprit d'entreprise, et avec ses possessions coloniales dont l'important marché nous était à peu près fermé jusqu'à ce jour par une législation basée sur le privilége et le monopole.

Les négociations ouvertes avec un autre pays, qui s'était montré, jusqu'ici, peu disposé à entrer dans les voies de la liberté commerciale, *l'Espagne*, ont abouti à la conclusion d'une convention signée à Madrid, le 18 juin dernier. Cet arrangement, qui a pour principal objet la suppression réciproque des droits différentiels sur les marchandises importées par terre, était

impatiemment attendu comme le complément indispensable de la jonction des chemins de fer français et espagnols.

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Le Gouvernement de l'Empereur avait hâte de voir disparaître les obstacles qu'un régime restrictif, en contradiction avec les progrès économiques accomplis dans tous les États de l'Europe, opposait au développement des relations de la France et de la Péninsule; aussi n'a-t-il pas hésité à faire, pour obtenir ce résultat, toutes les concessions compatibles avec les intérêts de notre commerce et de notre industrie. Des dégrèvements importants, accordés aux principaux produits naturels de l'Espagne, leur permettent de soutenir la concurrence des produits similaires importés des pays auxquels un régime conventionnel très-libéral avait presque exclusivement réservé jusqu'ici l'accès de notre marché.

Tout en nous félicitant d'avoir pu, grâce à l'esprit de conciliation qui a présidé de part et d'autre à cette négociation, triompher des difficultés qu'elle a long-temps rencontrées dans les résistances du parti protectionniste en Espagne, nous ne saurions la considérer comme le dernier mot de notre alliance commerciale avec une Puissance qu'unissent à nous tant de communs intérêts. Les abaissements de tarif accordés à quelques articles de notre importation, en échange des larges dégrèvements que nous avons concédés, ne sauraient être regardés que comme l'essai encore timide d'une réforme que nos voisins n'accueillent pas sans quelque hésitation, et à laquelle ils se rallieront franchement, nous n'en doutons pas, à mesure qu'ils en apprécieront mieux les avantages. Les Chambres espagnoles, naguère rebelles aux doctrines de la liberté commerciale, ont, dans leur dernière session, donné une preuve manifeste du changement qui s'est opéré dans leurs idées, en adoptant une loi qui autorise le Gouvernement à supprimer les surtaxes sur les importations, par mer, des pays européens. Nous espérons que le Cabinet de Madrid ne tardera pas à user de cette faculté, et nous serions heureux de pouvoir annoncer dans le prochain Exposé la conclusion avec l'Espagne d'un traité de commerce et de navigation reposant sur les mêmes bases que les pactes qui ont successivement réglé les relations commerciales entre l'Empire et les autres grandes Puissances, et répondant à l'importance des intérêts auxquels la Convention du 18 juin, nous devons le dire, n'a donné qu'une incomplète satisfaction.

La jonction des chemins de fer français et espagnols, accomplie par Irun, s'effectuera bientôt aussi à la frontière des Pyrénées-Orientales. Les conditions de ce raccordement sont dès à présent arrêtées de part et d'autre, et une nouvelle artère s'ouvrira au mouvement chaque jour plus rapide d'une circulation dégagée aujourd'hui des entraves que lui a trop long-temps opposées la barrière des tarifs différentiels.

L'application des divers traités que nous venons de rappeler est encore trop récente pour qu'il soit possible, dès aujourd'hui, d'en apprécier les résultats avec une suffisante exactitude. Cependant, l'empressement que met notre commerce à se porter sur les marchés nouveaux qui lui sont ouverts, l'étude attentive qui se fait au dehors du prix et de la qualité de nos produits, les relations directes et suivies qui tendent à s'établir, sont autant de symptômes précurseurs

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d'un sérieux développement d'affaires, que nous verrons bientôt se traduire par des chiffres. Nos agents diplomatiques et consulaires ne négligent aucun effort pour le seconder. La plupart d'entre eux, obéissant aux inspirations spontanées de leur zèle, n'ont pas attendu les instructions du Ministre des Affaires étrangères pour diriger les premiers pas de nos exportateurs dans des voies encore inexplorées, et pour les éclairer sur les conditions, trop souvent méconnues, du succès des opérations commerciales à l'étranger. Il ne suffit pas de conclure des traités de commerce, il faut savoir leur faire produire tous leurs fruits. C'est là une partie essentielle de la mission des représentants de l'Empereur, et le Gouvernement n'a qu'à se féliciter de la manière dont ils la comprennent et la remplissent.

On a pu voir par ce résumé qu'il reste aujourd'hui bien peu d'États européens en dehors du mouvement économique qui rapproche les peuples et les réunit dans une œuvre commune de progrès et d'amélioration. Par le traité qu'elle a tout récemment signé avec l'Angleterre, l'Autriche est sortie d'un isolement dont ses intérêts matériels n'avaient pas seuls à souffrir. Elle avancera résolument, il est permis de l'espérer, dans la voie où elle vient d'entrer, et nous ne doutons pas de l'issue favorable de la négociation que son Gouvernement a témoigné le désir d'engager avec le nôtre. L'exécution du traité du 16 décembre s'y lie d'ailleurs étroitement, le Cabinet de Vienne étant décidé à rendre applicables à la même époque les stipulations arrêtées avec la France comme avec la Grande-Bretagne. Dans l'intérêt même de cette négociation, ouverte depuis quelques semaines seulement, nous devons respecter le secret des premières conférences; mais les principes qui dirigent la politique commerciale du Gouvernement de l'Empereur sont assez connus: on peut être certain que son adhésion ne saurait être acquise qu'à un arrangement conçu dans un esprit franchement libéral. Le juste sentiment de confiance qu'il a dans les vues éclairées de l'Administration autrichienne et dans sa ferme détermination d'accomplir une réforme devenue nécessaire la rassure contre les difficultés que ses négociateurs pourront rencontrer à Vienne, où le parti prohibitioniste a trop long-temps exercé une domination absolue pour qu'il y renonce sans combat. L'aspiration vers le progrès, qui se manifeste sur tous les points de la vaste monarchie de l'empereur François-Joseph et qu'encouragent d'augustes exemples fera contre-poids à ces influences rétrogrades qu'aucune grande nation ne consentira désormais à subir, et dont les États secondaires cherchent eux-mêmes à se dégager.

Il nous est agréable de citer, entre autres, *le Portugal*, dont le Gouvernement s'est montré favorable à l'offre que nous lui avons faite de négocier une convention qui fût de nature à développer les échanges des deux pays par des réductions réciproques de tarif. Le Cabinet de Lisbonne a compris que le commerce portugais était sérieusement intéressé à obtenir pour les produits naturels similaires de ceux de l'Espagne et de l'Italie, auxquels nos tarifs conventionnels accordent un régime de faveur, une parité de traitement qui leur permette de soutenir sur notre marché une concurrence aujourd'hui impossible.

D'un autre côté, une circonstance heureuse a servi à faire apprécier en Portugal les articles variés de l'industrie française, et à prédisposer l'opinion en

faveur d'un arrangement qui les rende plus accessibles aux consommateurs: nous voulons parler de l'Exposition internationale de Porto, dans laquelle nos artistes et nos fabricants ont figuré avec une superiorité qui n'a pas peu contribué à l'éclat de cette solennité. En signalant un succès justifié par le mérite des exposants et par le zèle que les Commissaires chargés de les seconder ont mis à l'accomplissement de leur mandat, nous nous plaisons à espérer que les éloges unanimes obtenus par nos industriels contribueront à répandre le goût de leurs produits parmi toutes les classes de la population portugaise.

Notons, en passant, que l'industrie française ne s'est pas montrée avec moins d'avantage à l'Exposition de Dublin. Les visiteurs anglais ont pu reconnaître qu'elle avait mis à profit le temps écoulé depuis le Traité de 1860. *L'Exposition universelle de* 1867 lui offrira un plus vaste théâtre et une occasion plus solennelle de mériter de nouveaux succès. Le département des Affaires étrangères prête un concours d'autant plus empressé aux travaux préparatoires de la Commission Impériale que, saisissant le côté sérieux et pratique de ces grandes assises auxquelles sont conviés les producteurs de tous les pays, il les considère à la fois comme un précieux enseignement pour nos industriels, et comme l'illustration, en quelque sorte, du programme économique tracé par la main de l'Empereur.

Plus la faveur qu'obtiennent les produits de nos fabricants est grande et générale, plus il importe de leur assurer au dehors la propriété des marques qui les recommandent aux préférences des consommateurs étrangers. Aussi le Gouvernement fait-il de cette garantie une des stipulations essentielles des traités qu'il négocie. La reconnaissance du principe ne rencontre pas d'opposition sérieuse, mais les difficultés commencent à l'application, comme le Corps législatif a pu s'en convaincre par les réclamations dont il a été saisi vers la fin de la session dernière. Une grande inégalité semble pour quelque temps encore inévitable dans le mode et l'étendue de la protection internationale du droit de propriété industrielle. Les progrès de la législation en cette matière se mesurent, dans chaque pays, sur le développement de l'industrie indigène, et, en France même, les règlements spéciaux sur les marques et dessins de fabrique sont d'une date relativement récente. Nous avons donc cru devoir, en réclamant auprès de divers États contre de graves abus qui nous avaient été dénoncés, tenir compte de l'état arriéré de la législation de plusieurs d'entre eux. Cependant, nous n'avons admis nulle part que l'absence de règlements intérieurs pour protéger la propriété des nationaux contre l'emprunt frauduleux de leurs marques pût être opposée comme une fin de non-recevoir aux plaintes légitimes de nos fabricants. Ainsi nous avons obtenu du Conseil fédéral suisse qu'introduisant à la faveur de nos réclamations une heureuse réforme dans le régime des relations des divers cantons entre eux, il fit sanctionner par les Conseils législatifs une loi nouvelle calquée sur la nôtre et assurant à nos nationaux, dans toute la Confédération, les mêmes garanties qu'en France pour leur propriété industrielle.

Les représentations que nous avons adressées à quelques gouvernements de l'Allemagne, en nous fondant sur les stipulations du Traité de Berlin, n'ont pu, à raison de l'autonomie des divers États réunis en un seul groupe

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douanier, aboutir à un résultat aussi satisfaisant. Mais, à défaut d'un règlement uniforme, applicable dans toutes les parties du Zollverein, nous avons péremptoirement insisté pour que, dans chacune d'elles, la propriété des sujets de l'Empereur fût assurée d'une protection au moins aussi efficace que celle qui lui est acquise en Prusse. Nous sommes heureux de pouvoir annoncer qu'une loi récemment présentée aux chambres de Hesse-Darmstadt par le gouvernement de S. A. R. le grand-duc a pour objet de combler la regrettable lacune que nous lui avions signalée et qu'il s'est loyalement empressé de reconnaître.

La propriété des œuvres d'esprit et d'art ne se recommande pas moins à la sollicitude du Gouvernement impérial. Une série de conventions destinées à la garantir a été conclue l'année dernière avec divers États du Zollverein, ainsi qu'avec les Villes hanséatiques et le grand-duché de Mecklenbourg, et complète le régime nouveau qui règle les relations de la France et de l'Allemagne. Ces actes diplomatiques simplifient notablement les formalités que les auteurs ou éditeurs français auront à remplir pour établir et faire respecter leurs droits, qui seront les mêmes que ceux dont jouissent les nationaux.

L'exposé de l'année dernière mentionnait la conclusion d'un arrangement entre la France, la Belgique, la Grande-Bretagne et les Pays-Bas pour fixer, d'après des bases communes, *le régime des sucres.* Cet arrangement, signé le 8 novembre 1864, a reçu, le 1er août dernier, son application dans les quatre pays contractants. Conformément à l'article 18, les types nécessaires à l'exécution de la convention avaient été préalablement arrêtés dans des conférences successivement tenues à Londres et à la Haye. Il restait à procéder aux expériences pratiques de raffinage prescrites par l'article 2 pour constater le rendement réel des différentes espèces de sucres bruts; une nouvelle réunion des commissaires de chacun des gouvernements avait été jugée indispensable pour résoudre à l'avance les nombreuses questions de détail que devaient présenter ces délicates opérations: elle a eu lieu à Londres. Toutes les difficultés ont été heureusement aplanies: les expériences ont été confiées à une usine située en terrain neutre, à Cologne; elles se poursuivent dans les conditions de la plus stricte impartialité, sous le contrôle collectif et incessant d'agents désignés par les administrations des quatre Puissances contractantes, et seront terminées au mois de juillet prochain au plus tard. Les rendements provisoires, fixés par l'article 1er de la convention, seront réglés définitivement d'après les résultats obtenus, de manière à établir une corrélation exacte entre les droits d'entrée et les rendements effectifs.

La convention signée, le 9 novembre dernier, avec *la Principauté de Monaco* est le complément des arrangements antérieurs qui ont eu pour objet la réunion au territoire de l'Empire des villes de Menton et de Roquebrune. Cet acte, dont certains organes de la presse française et étrangère ont inexactement apprécié la portée, et auquel ils ont à tort attribué, au point de vue de nos engagements avec les Puissances étrangères, des conséquences qu'il n'implique pas, a pour but, comme l'indique clairement l'article 1er, de régler les conditions d'union douanière et les relations de voisinage entre la France et la Principauté. Sa valeur est toute locale; il met fin à une situation provisoire gênante

pour les populations limitrophes, et qui, par la surveillance incessante qu'elle nécessitait sur la frontière de ce petit État, compliquait d'une manière fâcheuse notre service de douanes. Ce service s'étend aujourd'hui par une ligne non interrompue, grâce à cet arrangement, sur tout le littoral de la Méditerranée compris entre Port-Vendres et Menton.

Parmi les actes conventionnels auxquels a concouru notre diplomatie, quelques-uns, sans avoir un caractère strictement commercial, ont néanmoins pour but et auront pour résultat de faciliter et de développer les transactions des peuples entre eux. C'est ainsi qu'à la suite des traités qui continuent, par l'application successive de ces principes, la grande réforme de 1860, le Gouvernement de l'Empereur se félicite de pouvoir placer un acte qui, dans la sphère plus restreinte du commerce intérieur et des transactions de faible importance, répond à des besoins non moins dignes d'intérêt.

Une convention monétaire a été signée à Paris le 23 décembre 1865, entre la France, la Belgique, l'Italie et la Suisse. Elle établit ou plutôt elle reconstitue, sous la garantie d'un contrat international, une union monétaire qui avait existé de fait entre ces quatre États, mais que diverses mesures, adoptées sans entente préalable, avaient rompue dans ces dernières années. Ces mesures étaient, du reste, la conséquence d'une situation qui appelait un remède aussi prompt qu'énergique. Depuis 1850, les immenses importations d'or de la Californie et de l'Australie, les exportations considérables d'argent qu'a nécessitées principalement l'extension des rapports commerciaux avec l'extrême Orient, la prime que ce métal n'a point tardé à obtenir, la spéculation qui s'en est bientôt emparée pour se livrer à de fructueuses opérations d'exportation et de refonte, toutes ces circonstances ont amené une perturbation profonde dans la circulation métallique de l'Europe. L'argent est devenu de plus en plus rare, et la France, en particulier, devait ressentir d'autant plus les effets de ce changement, qu'elle était depuis long-temps le principal marché du numéraire en argent, et que la loi du 7 germinal an XI maintenait rigoureusement entre les deux métaux précieux un rapport de valeur qui s'était modifié sur les autres marchés. Le résultat était inévitable: après la disparition de la pièce de 5 fr., s'est manifestée l'insuffisance de la monnaie d'appoint, cet indispensable instrument d'échange pour les petits payements; il n'est plus resté dans la circulation que les pièces dépréciées par l'usure. C'est alors que sont successivement intervenues en Suisse, en Italie et en France des dispositions législatives pour satisfaire aux justes réclamations du commerce; au même mal on a opposé le même remède, on a abaissé le titre, mais suivant des règles et des proportions différentes. Cette diversité a fourni à la spéculation de nouvelles ressources, et les inconvénients sont devenus bientôt assez graves pour éveiller de nouveau la sollicitude des Gouvernements; les pièces suisses, notamment, ont dû être refusées dans les caisses publiques de l'Empire.

Une entente internationale était le seul moyen pratique d'arriver à une solution vraiment efficace; des commissaires délégués par les gouvernements de France, de Belgique, d'Italie et de Suisse, se sont réunis à Paris, au ministère des affaires étrangères, et ont discuté, sous la présidence de M. de Parieu, vice-

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président du conseil d'État, les conditions d'un accord pue les législations respectives, comme les émissions déjà faites aux nouveaux titres, devaient rendre difficiles à établir. Mais le sentiment des besoins impérieux auxquels il s'agissait de pourvoir, non moins que l'esprit de conciliation dont étaient animés tous les membres de la conférence, a permis d'aplanir les obstacles d'abord entrevus.

En ce qui le concerne, le Gouvernement de l'Empereur, sans abandonner aucune des bases essentielles de notre système monétaire, trouve, dans la convention du 23 décembre, les facilités et les garanties qu'il cherchait pour mettre la circulation de notre monnaie d'appoint en rapport avec le développement de nos transactions intérieures. Si, d'après l'expérience acquise, il a été jugé impossible de donner aux pièces de 2 francs et de 1 franc un titre supérieur à celui de $^{835}/_{1000}$, que la loi du 25 mai 1864 a déjà consacré pour les pièces de 50 centimes et de 20 centimes, les poids que fixe la loi du 7 germinal an 11, et qui déterminent la relation du système monetaire avec le système métrique, ont été maintenus dans leur intégrité. Le double étalon a de même été sauvegardé, malgré le désir hautement exprimé par les trois autres Parties contractantes, de faire prévaloir dans la nouvelle union monétaire le principe de l'étalon d'or; la pièce d'argent de 5 francs, conservée à $^{900}/_{1000}$ de fin, restera comme l'expression matérielle de notre unité monétaire d'argent, représentée, il est vrai, par son quintuple, mais dans le type qui a toujours servi de base principale aux opérations de monnayage et aux payements de quelque importance.

Des dispositions expresses limitent l'émission comme le cours légal des monnaies d'appoint, et servent ainsi de correctif à l'abaissement du titre. Enfin, des règles communes pour la fabrication des monnaies d'or complètent le nouvel arrangement, qui doit être ratifié dans le délai de six mois, et dont le terme est fixé au 1er janvier 1880, avec tacite reconduction.

Une clause spéciale réserve d'ailleurs à tout pays le droit d'accession à la convention du 23 décembre. Elle répond à un vœu qui s'est produit au sein de la conférence internationale, et qui n'a pas été sans influence sur l'heureuse issue de la négociation. Les gouvernements contractants verraient, en effet, avec la plus vive satisfaction cette union monétaire, aujourd'hui restreinte à quatre États, devenir le germe d'une union plus vaste, et favoriser la généralisation d'un système uniforme de poids, de mesures et de monnaies.

La convention télégraphique signée le 17 mai dernier à Paris se rattache au même ordre d'idées et se propose également pour objet le développement des relations internationales. Dix-neuf Gouvernements étrangers ont pris part à cette importante négociation, et se sont fait représenter par des délégués spéciaux au sein d'une Commission qui s'est réunie sous la présidence de M. le Directeur général des lignes télégraphiques de France. Les travaux de cette Commission ont abouti à un projet d'arrangement comprenant un ensemble de dispositions obligatoires pour toutes les administrations de l'Europe. Indépendamment de cet avantage de l'uniformité, la Convention du 17 mai a introduit dans le régime de la télégraphie internationale de nouvelles et importantes améliorations, dont les principales sont: la substitution dans chaque État de la taxe unique au système des zones; un abaissement notable des tarifs actuellement en vigueur; l'adoption

du franc comme unité monétaire pour la formation des tarifs internationaux; l'usage de la dépêche *recommandée*, qui correspond à la dépêche *chargée* du service postal; l'usage de la dépêche *à faire suivre*; l'emploi du *chiffre*, comme mode de correspondance, accepté en principe par tous les États de l'Europe et immédiatement applicable dans la plupart d'entre eux. Des résultats aussi considérables n'ont pu être obtenus que grâce au sincère esprit de conciliation qui a constamment présidé aux délibérations de tous les membres de la Commission, et au désir manifesté par chacun d'eux de faire céder, autant que possible, les intérêts particuliers des divers pays devant l'intérêt général.

Les Gouvernements en petit nombre qui ne se sont point trouvés en mesure de prendre part à ces négociations annoncent successivement leur intention de profiter du droit d'accession qui leur a été réservé par l'art. 60 de la Convention. Le Mecklenbourg a déjà fait usage de cette faculté, et le moment ne saurait tarder où les règlements adoptés par la Conférence de Paris formeront un code international applicable aux relations télégraphiques de tous les États du continent, sans exception.

Les Puissances limitrophes ayant, d'ailleurs, conservé la liberté de prendre entre elles des arrangements particuliers sur toutes les questions qui les concernent exclusivement, le Gouvernement de l'Empereur a échangé en outre, les 30 novembre et 23 décembre derniers, avec la Belgique et la Suisse de nouvelles déclarations destinées à faciliter encore, par de notables réductions de taxes, le mouvement des correspondances télégraphiques entre ces deux pays et la France.

Les ratifications de la Convention conclue à Paris, le 16 mai 1864, pour *l'établissement d'une ligne télégraphique entre l'Europe et l'Amérique méridionale* pourront être échangées aussitôt que les Cortès portugaises auront approuvé cet acte international, actuellement soumis à leur examen. Les plénipotentiaires du Brésil, d'Haïti et de l'Italie ont déjà été mis en mesure par leurs Gouvernements d'accomplir cette formalité.

De l'autre côté de l'Atlantique, nous avons à constater l'heureux changement survenu dans *la situation de notre commerce aux États-Unis*. A mesure que la féconde activité du peuple américain fait disparaître les traces de quatre années de luttes et d'épreuves, un vaste champ se rouvre aux entreprises de nos exportations. Si l'élévation d'un tarif voté sous la pression de nécessités passagères entrave encore, aux États-Unis, l'écoulement des produits français, nous aimons à penser que le Gouvernement fédéral ne tardera pas à revenir dans la fixation des droits de douane, ainsi que dans leur perception, à cet esprit libéral que la plupart des nations européennes s'accordent aujourd'hui à considérer comme l'un des gages les plus certains du développement de la richesse publique.

Le même sentiment d'espoir que nous avions exprimé l'année dernière en parlant *du Mexique* ne s'est encore qu'imparfaitement réalisé. Pour faciliter la réforme d'un régime douanier aussi défectueux par la complication des taxes que par leur taux exagéré, nous avions offert au cabinet de Mexico de consacrer par la voie conventionnelle un ensemble de dégrèvements réciproques en faveur des principaux articles échangés entre les deux pays. Malgré l'accueil empressé fait à nos propositions, une année s'est écoulée sans amener de résultat. Nous

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nous hâtons d'ajouter que ce retard ne doit être attribué à aucun dissentiment sur le fond même de la négociation, et que la récente désignation d'un plénipotentiaire mexicain permet de compter sur la prochaine ouverture des conférences préparatoires.

L'approbation générale qu'a déjà reçue du Gouvernement de S. M. l'empereur Maximilien le projet de convention consulaire que nous avions en même temps soumis à son examen donne lieu d'espérer que les droits et les immunités des consuls respectifs seront bientôt déterminés par un acte international avec toute la précision désirable.

La création d'un consulat à Mazatlan, suivie du remaniement de nos différents postes d'après la nouvelle division administrative du Mexique, a complété l'organisation de notre service consulaire dans cet empire, et donné satisfaction aux vœux légitimes des nombreux résidants français que nos agents ne pouvaient couvrir que d'une insuffisante protection.

Nous voudrions pouvoir annoncer que la légitime intervention de nos agents *au Brésil* en faveur de leurs nationaux s'exerce aujourd'hui librement. Des difficultés d'interprétation, soulevées depuis plus de deux ans par les autorités locales, ont fait perdre au traité de 1860 une partie de son efficacité et entraîné, dans certains cas, des conflits d'attributions préjudiciables aux sujets de l'empereur. Toutefois, le cabinet de Rio étant animé de l'esprit conciliant que nous n'avons cessé d'apporter dans le règlement de ces délicates questions, notre droit conventionnel en matière consulaire ne saurait tarder à se trouver replacé sur des bases stables et dans des conditions qui, sans porter atteinte aux droits de la souveraineté territoriale, sauvegardent nos propres intérêts.

Les complications politiques survenues l'année dernière *à Montévidéo* ont fait ajourner la discussion des clauses du traité de commerce qui doit remplacer la convention préliminaire de 1836 entre la France et l'Uruguay. Les plénipotentiaires des deux États ont dû se borner, dès lors, à proroger de nouveau cette convention jusqu'au mois de juillet 1867.

L'arrangement par lequel *le Gouvernement péruvien* s'est engagé, en 1864, à réduire le prix de vente du guano sur les marchés de l'empire a été ratifié le 12 mai dernier. Nous insistons aujourd'hui, à Lima, pour que nos planteurs des Antilles et de la Réunion puissent se procurer ce précieux engrais à des conditions non moins avantageuses que celles dont jouissent les agriculteurs de la métropole.

Tandis qu'en Amérique le commerce français étend ou restreint le cercle de ses opérations suivant les vicissitudes que subit la politique intérieure des divers États de ce continent, *dans l'extrême Orient* il commence à parcourir d'un pas plus libre et mieux assuré les voies nouvelles que lui a ouvertes la sollicitude du Gouvernement de l'Empereur. Rien n'est négligé pour encourager ses entreprises sur ces vastes marchés, à peine exploités, que peuplent d'innombrables consommateurs. A Nankin, un emplacement convenable, fixé de concert avec l'autorité chinoise, attend les sujets français qui voudront s'établir dans ce port. De nouveaux efforts sont tentés à Hankao pour obtenir, malgré la cherté des terrains, un semblable résultat. A Chang-haï, la situation prospère de l'établissement français atteste la sagesse des vues qui ont présidé à son organi-

sation, et notre consul général, obéissant à des motifs de haute moralité, a pu récemment ordonner la fermeture des maisons de jeu, sans que l'équilibre du budget de la communauté fût compromis par la perte des taxes auxquelles était soumise cette triste branche de spéculation.

Notre Légation a définitivement obtenu de la Cour de Pékin que le droit de tonnage établi par le traité de Tien-sin ne serait prélevé que tous les quatre mois, quel que fût le nombre des voyages, sur les bâtiments portant notre pavillon qui navigueraient entre ports chinois, annamites et japonais. D'un autre côté, par suite de l'extension récemment donnée aux facilités spéciales dont nos négociants jouissent depuis deux ans pour le transport de leurs marchandises sous pavillon national dans les mers de l'Indo-Chine, les Français établis en Chine, en Cochinchine, au Japon, dans le royaume de Siam, à Singapour, aux îles Philippines et dans les Indes néerlandaises, peuvent, avec l'autorisation de nos consuls, faire naviguer sous les couleurs françaises, entre les ports de ces divers pays, les bâtiments non francisés dont ils sont propriétaires. En outre, et comme corollaire de cette mesure, les capitaines de navires français qui se livrent aux mêmes opérations d'intercourse ont la faculté de composer en entier leurs équipages de marins étrangers.

Sous l'influence du revirement favorable que nous avons déjà signalé l'année dernière dans la politique extérieure du *Japon,* nos rapports commerciaux avec ce pays tendent à prendre chaque jour plus d'extension. Le Gouvernement du Taïcoun vient même de provoquer la formation, sous son patronage, d'une société de commerce japonaise qui devra, de concert avec une compagnie française, travailler au développement des échanges entre le Japon et la France.

L'exportation des graines de vers à soie, délivrée désormais de toute entrave, donne à nos sériciculteurs d'inappréciables ressources pour la régénération de nos races indigènes. De leur côté, les Départements des Affaires étrangères et du Commerce viennent d'adopter des dispositions spécialement destinées à prévenir la vente en France des graines dont la véritable origine et la mauvaise qualité étaient dissimulées à l'aide d'étiquettes mensongères.

L'ouverture des négociations relatives à la révision du traité de commerce conclu en 1862 avec *le roi Radama II* demeure toujours subordonnée au payement de l'indemnité que nous réclamons du Gouvernement malgache pour la compagnie française de Madagascar. L'envoi à Tamatave des fonds destinés à ce payement et le bon vouloir personnellement manifesté par la reine Rasoherina permettent de prévoir, dès à présent, l'impuissance des derniers efforts que tente le parti hostile à la France pour retarder encore le règlement de cette affaire, au risque de nous obliger à recourir à l'emploi de moyens coercitifs.

L'Exposé de l'année dernière se terminait par la mention d'un de ces actes qui prouvent que les grandes questions politiques et commerciales dont se préoccupent les Gouvernements de l'Europe ne leur font pas perdre de vue les intérêts d'humanité qui, à d'autres époques et sous d'autres régimes, ne semblaient relever que du domaine de la théorie*). Nous nous félicitons de pouvoir, cette

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*) Convention de Genève pour la neutralisation des hôpitaux militaires et des ambulances.

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année encore, apporter un éclatant témoignage de la sollicitude qu'ils leur inspirent et de l'attention sérieuse et sympathique qu'ils y donnent.

En présence *de l'épidémie cruelle* qui a sévi en Orient et qui s'est étendue aux États de l'Europe méridionale et jusqu'à notre territoire, le Gouvernement de l'Empereur a pensé qu'il y avait quelque chose de plus à faire que de prodiguer des secours et des consolations, que d'encourager le dévouement dont nos Agents au dehors, comme tous les fonctionnaires français sur toutes les parties de l'Empire atteintes par le fléau, ont donné de si nobles exemples, que d'appliquer dans toute leur rigueur les prescriptions des règlements sanitaires, enfin que de provoquer des mesures locales et trop souvent passagères d'assainissement. Il s'est demandé si le retour des épidémies cholériques qui éprouvent si douloureusement les populations et jettent un si grand trouble dans les rapports internationaux n'imposait pas aux Gouvernements des nations civilisées le devoir de les combattre en commun et d'en arrêter la funeste et périodique invasion. Il les a donc conviés à s'entendre avec lui pour organiser cette tutelle de la santé publique. Son appel a été entendu, et toutes les Puissances se sont empressées d'accueillir la proposition d'ouvrir à Constantinople une Conférence internationale qui aura pour mission de rechercher les causes primordiales du choléra, d'en déterminer les points de départ principaux, d'en étudier les caractères et la marche et de suggérer les moyens pratiques de le circonscrire et de l'étouffer à son origine. La France et le monde entier font des vœux pour que le concert si heureusement établi, grâce au loyal concours du Gouvernement du Sultan, le plus intéressé au succès de l'œuvre de la Conférence, permette d'atteindre le but philanthropique que le Gouvernement de l'Empereur a indiqué en prenant l'initiative de cette croisade de la civilisation et de la science contre le mystérieux et redoutable fléau.

DOCUMENTS DIPLOMATIQUES 1866.

AFFAIRES D'ITALIE ET DE ROME.

I. Reconnaissance de l'Italie par l'Espagne et les États allemands.

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FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in Rom. — Uebersendung der Abschrift einer Depesche nach Madrid (s. d. folg. Nummer) über die Angelegenheiten des päpstl. Stuhls. —

Paris, le 14 mars 1865.

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M. le Prince de Metternich et M. Mon ont eu avec moi, ces jours passés, au sujet des affaires de Rome, des entretiens qui sont résumés dans une dépêche que j'adresse aujourd'hui à l'Ambassadeur de Sa Majesté à Madrid, et dont je vous transmets ci-joint copie. ¶ MM. les Ambassadeurs d'Autriche et d'Espagne ont tour à tour cherché à appeler ma sollicitude sur une éventualité qui préoccupe leurs Gouvernements, c'est-à-dire l'inobservation par l'Italie de la

Convention du 15 septembre, et sur l'utilité qu'il y aurait à arrêter, dès à présent, des mesures dans cette prévision. ¶ Vous verrez sur quelles considérations je me suis fondé pour décliner toute suggestion de cette nature. ¶ Agréez, etc.

No. 2068. Frankreich, 14. März 1865.

Drouyn de Lhuys.

No. 2069.

FRANKREICH. — Min. d. Ausw. an den Kais. Botsch. in Madrid. — Bericht über Unterredungen mit den Vertretern Oesterreichs und Spaniens in Paris in Betreff der Sicherheit des Papstes nach Ausführung der Convention vom 15. Sept., sowie Anempfehlung der Anerkennung des Königreichs Italien durch Spanien. —

Paris, le 14 mars 1865.

No. 2069. Frankreich, 14. März 1865.

Monsieur, en me rendant compte, le 24 du mois dernier, de l'impression très-favorable produite à Madrid par le discours de l'Empereur, vous m'annonciez que le paragraphe qui concerne la situation de la Papauté avait particulièrement fixé l'attention, et que M. le Ministre des Affaires étrangères d'Espagne avait été surtout frappé de ce qu'a dit Sa Majesté de la Convention du 15 septembre. ¶ M. le duc de Gramont m'avait déjà transmis de Vienne des informations analogues, quand M. l'Ambassadeur d'Autriche est venu, il y a peu de jours, me donner connaissance d'une dépêche de M. le comte de Mensdorff, exprimant la satisfaction qu'avait ressentie le Gouvernement autrichien des dispositions modérées et pacifiques manifestées par l'Empereur: de tels sentiments étaient tout à fait conformes à ceux de la Cour de Vienne, et elle s'en félicitait. ¶ En ce qui touche les affaires de Rome, qui sont le principal objet de sa préoccupation, le Cabinet de Vienne a été pareillement heureux de trouver dans le discours de Sa Majesté les meilleures assurances quant au maintien du pouvoir de la Papauté et à la conservation de ses possessions dans les limites actuelles. Toutefois, si la valeur et l'efficacité de ces assurances ne peuvent faire, à ses yeux, l'objet d'aucun doute pour les deux années fixées par la Convention du 15 septembre, le Gouvernement autrichien n'est pas complétement rassuré sur ce qui adviendra de la sécurité du Souverain Pontife et du maintien de son pouvoir lorsque, à l'expiration de cette période, la France aura retiré ses troupes de Rome. Il se demande donc ce que l'on ferait s'il arrivait que les dispositions destinées à sauvegarder les intérêts du Saint-Siége fussent méconnues et que la Papauté se trouvât de nouveau en présent des dangers dont le Gouvernement de l'Empereur a voulu la préserver? ¶ C'est une éventualité qui, dans l'opinion de la Cour de Vienne, n'est nullement impossible; le discours de l'Empereur ne laisse rien pressentir à cet égard, et le Ministre des Affaires étrangères de France n'a jamais abordé ce sujet dans ses entretiens avec M. le prince de Metternich. M. le comte de Mensdorff désirerait donc obtenir quelques éclaircissements sur un point aussi important, et il invite M. l'Ambassadeur d'Autriche à les provoquer de ma part. ¶ Tel est, Monsieur, le résumé de la dépêche dont M. le prince de Metternich m'a entretenu. ¶ Je lui ai répondu que je ne pouvais le

No. 2069. Frankreich, 14. März 1865. suivre sur le terrain hypothétique où son Gouvernement nous conviait à nous placer, par cette raison très-simple, mais, suivant moi, péremptoire, que la Convention du 15 septembre est précisément destinée à prévenir les faits sur lesquels le Cabinet de Vienne croit devoir porter ses prévisions. Or nous ne saurions nous associer, dans une mesure quelconque, aux appréhensions qui ont inspiré la démarche de M. le prince de Metternich, sans nous mettre en contradiction avec nous-mêmes, car nous reconnaîtrions de la sorte que nous ne considérons pas comme bien sérieux les engagements pris envers nous dans un acte solennel; et, alors, ne serait-on pas en droit de nous demander pourquoi nous l'avons souscrit? ¶ En prenant une telle attitude, nous ne serions pas seulement inconséquents vis-à-vis de nous-mêmes; nous montrerions en outre, à l'égard du Gouvernement italien, des méfiances dont il pourrait, à juste titre, se trouver offensé. Je ne crains même pas d'ajouter que, si l'Italie se laissait jamais entraîner jusqu'à concevoir la pensée de ne pas remplir les obligations par elle librement contractées, rien ne serait plus propre à autoriser, ou du moins à pallier, à ses propres yeux, une telle conduite, que les doutes que l'on se hâterait, pour ainsi dire, de faire planer sur sa loyauté. ¶ Il ne saurait nous convenir sous aucun rapport, ai-je dit à M. de Metternich, de nous prêter à des suppositions qui, mettant gratuitement en question la portée et les conséquences d'un acte signé par la France, ne seraient guère d'accord, il faut l'avouer, avec la dignité des deux Gouvernements contractants. ¶ Envisageant ensuite au point de vue pratique l'ouverture qui m'était faite par M. le prince de Metternich, j'ai examiné la double hypothèse qu'elle me paraissait comporter, et je n'ai pas eu de peine à montrer qu'il serait également impolitique et dangereux de prendre d'avance l'un ou l'autre des deux partis que suggère la prévision indiquée par le Cabinet de Vienne. ¶ Déclarer que nous serions résolus, quoi que fasse ou ne fasse pas le Gouvernement pontifical, à le soutenir dans tous les cas, soit en maintenant indéfiniment nos troupes à Rome, soit en les y ramenant après les avoir retirées, ou en y appelant d'autres forces dont la composition serait arrêtée d'avance, ne serait-ce pas, en inspirant à la Cour de Rome une dangereuse sécurité, encourager les tendances absolues, les résolutions extrêmes auxquelles d'imprudents conseils voudraient l'entraîner? ¶ Au contraire, en répondant par un refus à toute mesure éventuellement proposée à l'effet de parer à l'inexécution de la Convention du 15 septembre, ne risquerions-nous pas de laisser croire au Gouvernement italien, s'il avait en effet les desseins qu'on lui attribue, qu'il pourrait impunément s'affranchir des obligations que lui impose cet acte international à l'égard du Gouvernement du Saint-Siége et du territoire pontifical? ¶ Il n'y aurait donc, ai-je dit à M. le prince de Metternich, que des inconvénients sans aucun avantage à vouloir résoudre ou seulement poser la question dont il était chargé de m'entretenir. Le parti le plus sage est, dès lors, de s'abstenir et de ne pas chercher par avance des solutions absolues, alors que l'on se trouve en présence d'une situation dont les éléments sont tellement complexes qu'elle ne saurait être entièrement dépendante de la volonté des deux Puissances qui ont signé les stipulations du 15 septembre. ¶ J'ai terminé en ajoutant que nous n'avions pas besoin de protester de nos intentions: l'appui que la France

prête seule depuis tant d'années à la cause de la Papauté témoigne mieux que nos paroles du dévouement désintéressé et sincère que nous lui portons, et des dispositions dont nous ne cesserons d'être animés à son égard. ¶ En résumé, nous n'avons pour le présent aucune réponse à faire aux questions et aux suggestions qui nous sont adressées au nom du Cabinet de Vienne. Nous rendons justice, d'ailleurs, au sentiment qui a inspiré sa démarche, et si plus tard il croyait avoir quelque proposition utile à nous faire, nous ne nous refuserions pas à l'examiner suivant que les circonstances nous le feraient juger opportun. ¶ M. le prince de Metternich n'a pas insisté sur les observations qu'il m'avait d'abord présentées; il s'est borné à me dire que l'Autriche n'était pas seule à se préoccuper, dès à présent, de l'éventualité qu'il avait été chargé de me signaler, et que nous ne devrions pas être surpris si d'autres Puissances Catholiques faisaient auprès de nous une démarche pareille à celle dont il venait de s'acquitter. ¶ M. l'Ambassadeur d'Espagne, en effet, est venu le lendemain me faire part des préoccupations de sa Cour au sujet des affaires de Rome; il m'a dit qu'il s'en était entretenu avec M. le prince de Metternich, et il m'a demandé, à son tour, quel serait le parti que nous prendrions si l'éventualité prévue à Madrid comme à Vienne venait à se réaliser. ¶ Ma réponse à M. l'Ambassadeur d'Espagne a été exactement conforme à celle que j'avais faite à M. le prince de Metternich. La suite de l'entretien m'a, en outre, amené à dire à M. Mon que les Cours Catholiques avaient le choix entre deux systèmes. ¶ Le premier, le seul sage et pratique, à mon avis, consisterait à aider de tout leur pouvoir à l'entière et loyale exécution de la Convention, ce qui serait d'ailleurs d'accord avec leurs propres vues, puisque leurs démarches mêmes semblent témoigner de tout le prix qu'elles attachent à ce que les engagements du 15 septembre soient respectés. ¶ Au lieu donc de chercher, par des mesures éventuelles, à pourvoir à des dangers purement hypothétiques, ne vaudrait-il pas mieux s'appliquer dès aujourd'hui à faire entendre à Rome des conseils qui, donnés avec unanimité par des Puissances amies, seraient sans doute écoutés? Leur effet serait d'autant mieux assuré, si chacune des Puissances Catholiques y joignait des témoignages encore plus directs de son intérêt, en offrant au Saint-Siége l'appui qui lui serait nécessaire pour faire face à ses besoins financiers, pour recruter et organiser son armée, enfin pour réaliser toutes les mesures propres à constituer le pouvoir temporel du Pape sur des bases solides et durables. Refuser de concourir au raffermissement et à la consolidation de ce pouvoir, ne serait-ce pas déclarer que cette tâche est inutile et vaine? Si donc les Puissances Catholiques pensent avec nous que la réponse la plus péremptoire à faire aux adversaires du pouvoir temporel serait évidemment de montrer ce pouvoir suffisant, comme un autre, aux conditions des sociétés modernes, ne devraient-elles pas unir dès à présent leurs efforts pour encourager la Cour de Rome à entrer dans la seule voie conforme à ses intérêts, et l'y soutenir? ¶ J'ai ajouté qu'un autre moyen non moins efficace de concourir à l'arrangement des affaires de Rome serait d'agir en même temps auprès de l'Italie. Mais, pour se mettre en position de donner des conseils au Cabinet de Turin et de s'y faire écouter, il n'y a qu'une marche à suivre: c'est que l'Espagne reconnaisse d'abord le nouveau titre du Roi Victor-Emma-

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nuel. Cette mesure prise dans la forme adoptée par le Gouvernement de l'Empereur, c'est-à-dire n'impliquant ni approbation pour le passé, ni garantie pour l'avenir, et laissant subsister dans leur entier les protestations et les réserves de la Cour de Rome, aurait cependant pour effet de rétablir entre l'Espagne et l'Italie des relations de bienveillance qui, en apportant à la Cour de Florence un appui moral, contribueraient à calmer les impatiences et à contenir les agitations que l'on suppose toujours prêtes à manifester dans la Péninsule. ¶ Le Gouvernement de Sa Majesté Catholique acquerrait, par le fait même du rétablissement de ses rapports avec le Cabinet italien, le droit de lui parler le langage de la modération, et il serait autorisé à demander, en retour de la décision qu'il aurait prise, que la Convention du 15 septembre fût exécutée dans le sens le plus favorable aux intérêts de la Cour de Rome. En un mot, le Gouvernement de Sa Majesté Catholique serait en position d'agir honorablement d'un côté comme de l'autre: à Turin, pour modérer et pour contenir; à Rome, pour contribuer à la réconciliation de la Papauté avec l'Italie, en même temps qu'à la consolidation du pouvoir temporel. ¶ En dehors de ce système, ai-je ajouté, il y en a un autre, qui est plus simple en apparence, et qui n'exige pas à coup sûr autant d'efforts ni de sagesse. Il consiste à tout abandonner à la Providence, à conseiller à la cour de Rome d'attendre les événements et de ne rien faire, à flatter les préjugés et les répugnances de certains amis de la Papauté, qui tendent ouvertement à tout pousser à l'extrême, en vertu de ce dangereux calcul, que le bien doit sortir de l'excès du mal; enfin à rendre impossible la tâche que doit se proposer aujourd'hui le Gouvernement pontifical, et, qui sait? à amener peut-être le départ du Pape. Si quelques esprits absolus et ardents acceptent ou appellent cette éventualité, le Gouvernement espagnol est trop éclairé pour ne pas comprendre les embarras qui se produiraient pour tout le monde le jour où le Souverain Pontife aurait quitté Rome. Où irait-il demander l'hospitalité? ¶ Ce serait peut-être en Espagne? Le Saint-Père y serait sans doute accueilli avec tous les égards et le respect qu'il serait assuré de rencontrer partout où il se présenterait. Mais songe-t-on aux difficultés et aux embarras de toutes sortes qui résulteraient pour l'Espagne de la présence de Sa Sainteté? Il ne faut pas se le dissimuler: ce pays renferme des éléments démagogiques qui, par l'effet d'une réaction inévitable, trouveraient une nouvelle cause d'excitation dans la présence sur le sol espagnol d'une Papauté plus inflexible que jamais, parce qu'elle serait dans le malheur, et qui deviendrait, même contre son gré, le point de ralliement de tous ceux qui, en Espagne, professent la doctrine de la monarchie absolue, tandis que le parti libéral, de son côté, verrait là un danger pour ses principes et aussi peut-être pour les franchises de l'Église espagnole. ¶ Ce n'est pas tout: une telle situation pourrait-elle se prolonger quelque temps sans exercer une influence notable sur les relations extérieures de l'Espagne? Séparé de plus en plus de l'Italie, le Cabinet de Madrid se trouverait forcément engagé dans les voies de la politique autrichienne. Je ne parle pas de ses rapports avec la France; je me borne à dire qu'ils n'auraient rien à y gagner. Enfin, et c'est une considération qui ne peut manquer de frapper un Gouvernement dévoué à la cause de la Papauté, pense-t-on que, le Saint-Père quittant

Rome, sa place y resterait long-temps vacante? Ne serait-ce pas, au contraire, ouvrir cette capitale à l'Italie et la lui livrer à tout jamais? ¶ Il suffit d'indiquer les conséquences de ce second système pour montrer, de la façon la plus évidente, que c'est au premier que l'Espagne doit vouloir se rattacher. ¶ M. l'Ambassadeur d'Espagne, sans contester la valeur des considérations que je venais de lui présenter, a cru devoir insister sur l'objet de sa communication, en émettant de nouveau l'opinion qu'il serait utile de chercher, en vue de prévenir l'inexécution des Actes du 15 septembre, un supplément de garantie. Je me suis contenté de lui répondre que nous tenions pour bonne et exécutable la Convention que nous avions signée; que, pour notre part, nous n'avions rien à y ajouter pour le moment; que si le Gouvernement de Sa Majesté Catholique voyait aujourd'hui ou plus tard quelque chose d'utile à nous proposer, il nous trouverait toujours prêts à écouter ce qu'il aurait à nous dire. ¶ Agréez, etc.

No. 2069. Frankreich, 14. März 1865.

Drouyn de Lhuys.

No. 2070.

FRANKREICH. — Min. d. Ausw. an den Kais. Botsch. in Madrid. — Befriedigung über die durch den Spanischen Conseilpräsidenten vor den Cortez ausgesprochene Absicht, das Königreich Italien anzuerkennen. —

Paris, le 27 juin 1865.

Monsieur, j'ai reçu la dépêche en date du 23 de ce mois, par laquelle vous me faites connaître le programme que M. le duc de Tetuan vient d'exposer devant les Cortès. Le Président du Conseil, entre autres déclarations importantes, a parlé de la prochaine reconnaissance du Royaume d'Italie par le Gouvernement de Sa Majesté Catholique. Vous savez quels sont les sentiments de vive sympathie et de sincère amitié qui président à nos rapports avec les Cours de Madrid et de Florence. Nous serons donc heureux d'un événement qui les rapprochera l'une de l'autre, et qui aura, nous en sommes convaincus, l'assentiment complet des deux nations. En s'isolant de l'Italie, le Cabinet espagnol se serait interdit à lui-même l'exercice de la légitime influence qui lui appartient dans les affaires de Rome. Au contraire, en nouant des relations diplomatiques avec la Cour de Florence, il sera désormais en mesure d'agir plus utilement en faveur du Saint-Siége, dont il désire, comme nous, l'indépendance et la sécurité. ¶ Agréez, etc.

No. 2070. Frankreich, 27. Juni 1865.

Drouyn de Lhuys.

No. 2071.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten in Deutschland. — Die Schritte Preussens zur Eröffnung von Verhandlungen zwischen dem Zollverein u. Italien wegen Abschluss eines Handelsvertrags und die damit verbundene Anerkennung des Königreichs Italien durch die Zollvereinsstaaten betr. —

Paris, le 4 juillet 1865.

Monsieur, le Gouvernement de l'Empereur suit avec intérêt les démarches dont la Prusse a pris l'initiative en vue de provoquer l'ouverture de né-

No. 2071. Frankreich, 4. Juli 1865.

No. 2068. Frankreich, 4. Juli 1865.

gociations commerciales entre le Zollverein et l'Italie. ¶ Nous n'avons pas à nous immiscer dans le dissentiment qui en est résulté entre les Cours de Vienne et de Berlin, et sur lequel, d'ailleurs, nous ne possédons que des informations incomplètes. Mais nous n'avons point non plus à dissimuler notre impression sur l'idée même que le Gouvernement prussien a suggérée de traiter avec le Cabinet de Florence en reconnaissant le Roi Victor-Emmanuel sous son nouveau titre. ¶ Je tiens à vous dire, avant tout, que nous ne sommes dominés par aucune pensée de rivalité commerciale. Nous acceptons d'avance, sans aucun sentiment d'envie, la concurrence des produits allemands dans la Péninsule. Nous considérons d'ailleurs que, si nous devons nous en ressentir, l'inconvénient sera compensé par l'avantage que nous trouverons à voir s'accomplir un nouveau progrès vers l'unité du régime libéral inauguré par l'Empereur en 1860. Nous approuvons donc l'Allemagne de chercher à ouvrir à son industrie le marché italien, si propre à solliciter chez elle l'esprit d'entreprise. Aux débouchés qu'elle obtiendra en Italie même, pour un grand nombre de ses produits manufacturés, il faut ajouter les facilités que Gênes lui offrira pour ses opérations d'outre-mer. Ce grand port, en effet, est l'intermédiaire habituel d'un commerce considérable avec l'Amérique du Sud, et principalement avec les États de la Plata. Les objets de fabrique allemande à destination des contrées méridionales du Nouveau Monde trouveront dans les maisons de Gênes les agents naturels de ces échanges. ¶ La perspective d'avantages aussi certains ne peut manquer d'exercer de l'influence sur les Cabinets allemands, jaloux de donner satisfaction aux intérêts des populations. ¶ Ils ne resteront pas non plus indifférents, sans doute, aux circonstances politiques qui font l'opportunité d'un rapprochement avec l'Italie. Depuis long-temps déjà toutes les grandes puissances, à l'exception de l'Autriche, ont reconnu le nouveau Royaume. La plupart des autres États ont agi de même. L'Espagne, qui avait hésité jusqu'ici, est à la veille de prendre une résolution semblable. Les Gouvernements de la Confédération germanique, en persévérant dans leur attitude actuelle à l'égard du Cabinet de Florence, seraient donc les seuls qui n'auraient point de relations diplomatiques avec lui. Nous croyons que l'Allemagne ne pourra pas rester indéfiniment dans une situation nuisible à son industrie et à son commerce. La Prusse et le grand-duché de Bade ont donné l'exemple. D'après mes dernières informations, plusieurs États se montrent disposés à entrer dans la même voie. Nous ne pourrions voir qu'avec satisfaction l'ensemble des pays allemands adopter une détermination qui serait pour l'Europe un nouveau gage de tranquillité et de paix. ¶ Vous êtes autorisé à vous exprimer en ce sens, lorsque l'occasion vous en sera offerte, dans vos entretiens avec les Ministres du Gouvernement auprès duquel vous êtes accrédité. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2072.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten in Deutschland. — Die Anerkennung des Königreichs Italien durch Bayern und Sachsen betr. —

Paris, le 1 décembre 1865.

No. 2072. Frankreich, 1. Dec. 1865.

Monsieur, à la suite de la reconnaissance du royaume d'Italie par les cabinets de Munich et de Dresde, M. le ministre de Bavière est venu m'entretenir des motifs qui ont dicté la détermination de son Gouvernement. La cour de Munich a voulu se mettre en position d'ouvrir avec la Péninsule des négociations commerciales, et, cédant au vœu de l'opinion publique, elle n'a pas hésité à faire taire les considérations dynastiques pour prendre conseil des seuls intérêts du pays. Le Gouvernement bavarois proteste d'ailleurs que rien n'est changé dans ses sentiments de dévouement pour le Saint-Siége, et il fait remarquer, avec raison, que devant être désormais représenté à Florence, il sera plus à portée de rendre son influence utile aux intérêts de l'Église. Les Cours de Bavière et de Saxe n'ignoraient pas d'ailleurs l'intérêt que nous portons à l'Italie, et les efforts que nous avons faits pour amener la reconnaissance du nouveau Royaume par la presque totalité des Puissances. Elles savaient donc que le Gouvernement de Sa Majesté verrait avec satisfaction la Confédération germanique se rapprocher commercialement et politiquement du Cabinet de Florence. L'influence des États allemands apportera un nouvel appui aux idées d'ordre et de conciliation qui tendent à prédominer dans la Péninsule, et l'établissement de rapports amicaux entre eux et la Cour d'Italie sera en même temps une nouvelle garantie de paix pour l'Europe. ¶ Agréez, etc.

Drouyn de Lhuys.

II. Retrait partiel de nos troupes.

No. 2073.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Rom. — Den herannahenden Beginn der Räumung des Päpstlichen Gebiets durch d. Französischen Truppen betr. —

Paris, le 11 septembre 1865.

No. 2073. Frankreich, 11. Sept. 1865.

Monsieur, nous approchons du terme que l'Empereur a fixé pour l'évacuation du territoire pontifical par notre armée. Sa Majesté a pensé, d'après les informations contenues dans la correspondance de l'Ambassade, que le Saint-Père préférerait au départ simultané de toutes nos troupes leur rappel successif. En conséquence, elle a résolu que ce mouvement de retraite commencerait par la prochaine rentrée en France d'un détachement d'infanterie, de cavalerie et d'artillerie. Les forces françaises demeurant dans les États du Pape se concentreront sur Rome, Viterbe et Civita-Vecchia. ¶ Vous pourrez, Monsieur, annoncer nos intentions au Cardinal Antonelli, et vous aurez soin de lui rappeler que le Sou-

No. 2073. Frankreich, 11. Sept. 1865. verain Pontife trouvera l'Empereur toujours disposé à prêter son concours aux mesures que Sa Sainteté jugerait convenable de prendre afin de pourvoir par ses propres ressources à la sécurité de ses États. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2074.

FRANKREICH. — Geschäftstr. in Rom an den Kais. Min. d. Ausw. — Befriedigung der Päpstlichen Regierung über die allmähliche Räumung des Päpstlichen Gebiets durch die Französ. Truppen. —

Rome, le 20 septembre 1865.

No. 2074. Frankreich, 20. Sept. 1865. Monsieur le Ministre, j'ai reçu la dépêche que Votre Excellence m'a fait l'honneur de m'adresser le 11 septembre, et j'ai cru devoir en donner lecture au Cardinal Secrétaire d'État. Après avoir appris que, par égard pour les préférences de la Cour de Rome, le Gouvernement de l'Empereur avait résolu de rappeler peu à peu notre armée d'occupation, le Cardinal Antonelli ne m'a pas caché la satisfaction qu'il en éprouvait, en ajoutant qu'elle serait assurément partagée par le Saint-Père. ¶ Son Éminence m'a déclaré que, la retraite de nos troupes étant décidée, leur évacuation successive lui semblait de tous points meilleure pour le Saint-Siége qu'un départ simultané, qui ne manquerait pas de laisser après lui de l'excitation dans les esprits; qu'avec le parti que nous avions bien voulu adopter, le Gouvernement romain aurait l'avantage de pouvoir préparer ses troupes à leur nouvelle mission, et de juger en même temps de la bonne foi que mettront les Italiens à respecter le territoire pontifical. Il se félicite également de la concentration de notre armée à Rome et dans le nord des États de l'Église. ¶ Le soin de veiller sur les provinces de Frosinone et de Velletri ne lui donne aucun souci, car il se croit assuré de leur bon esprit. Dès que nos garnisons les auront abandonnées, il fera remplacer nos soldats par des détachements pontificaux cantonnés à quelque distance des frontières, qui, dit-il, doivent, en temps de paix, ici comme partout, se garder elles-mêmes. Il m'a spontanément rappelé que, de 1856 à 1859, nos troupes avaient été réduites à une brigade, et que cette force avait parfaitement suffi à maintenir l'ordre, avec le concours de la petite armée du Pape, qui avait alors à garder les provinces du Saint-Siége dans leur intégrité. ¶ Veuillez agréer, etc. *Armand.*

No. 2075.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Florenz. — Ankündigung des bevorstehenden Beginns der Räumung des Päpstlichen Gebiets durch die Französ. Truppen. —

Paris, le 27 septembre 1865.

No. 2075. Frankreich, 27. Sept. 1865. Monsieur, l'Empereur a jugé que le moment était venu de s'occuper des conditions dans lesquelles devait s'effectuer l'évacuation du territoire pontifical par nos troupes, et Sa Majesté a décidé que cette mesure recevrait pro-

chainement un commencement d'exécution. Notre intention est, en conséquence, de rappeler en France, dans un délai peu éloigné, un premier détachement d'infanterie, de cavalerie et d'artillerie; les forces françaises demeurant dans les États du Saint-Siége se concentreront sur Rome, Viterbe et Civita-Vecchia. ¶ J'ai invité notre Chargé d'affaires à Rome à faire connaître la décision de Sa Majesté au Cardinal Antonelli. Nous n'avons, je m'empresse de le dire, qu'à nous louer de l'accueil que le Gouvernement pontifical a fait à cette communication. Il se dispose, de son côté, à prendre les mesures nécessaires pour remplacer nos troupes, au moment de leur départ, sur les différents points que nous aurons évacués et qu'il jugera utile d'occuper dans le voisinage de sa frontière méridionale. Je vous prie de porter ces informations à la connaissance de M. le général La Marmora. ¶ Recevez, etc. *Drouyn de Lhuys.*

No. 2075. Frankreich, 27. Sept. 1865.

No. 2076.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Rom. — Zur Beruhigung in Betreff der Ausführung der Convention vom 15. Sept. —

Paris, le 10 octobre 1865.

Les mesures que je vous ai annoncées par ma dépêche du 3 de ce mois vont prochainement dissiper les doutes qui semblaient subsister encore dans certains esprits à Rome, quant à l'exécution de la Convention du 15 septembre. Nous aimons à penser que le Gouvernement pontifical, se rendant un compte exact de la responsabilité résultant pour lui du nouvel état de choses, s'appliquera à maintenir, en ce qui dépendra de lui, la tranquillité sur la frontière que nos troupes ne tarderont pas à quitter. Le Chargé d'affaires de Sa Majesté à Florence a reçu dernièrement du général La Marmora l'assurance que les commandants italiens auraient l'ordre de redoubler de surveillance pour empêcher le brigandage, et qu'il leur serait particulièrement prescrit d'entretenir de bons rapports avec les autorités militaires et civiles du Saint-Siége. On comprend à Florence que l'honneur du Gouvernement italien est intéressé à ce que l'on ne s'aperçoive pas, en quelque sorte, du vide que laisseront les troupes françaises en quittant leurs cantonnements dans le sud des États romains. De telles dispositions, de la part de l'Italie, ne pourront que faciliter la tâche du Gouvernement pontifical, et nous apprendrions avec plaisir qu'il y répondît dans un intérêt commun d'ordre public. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2076. Frankreich, 10. Oct. 1865.

No. 2077.

FRARKREICH. — Ges. in Florenz an den Kais. Min. d. Ausw. — Uebermittelung der an die Italienischen Behörden an den Päpstlichen Grenzen ergangenen Instructionen in Anlass des Abzugs der Franz. Truppen. —

Florence, le 8 novembre 1865.

Monsieur le Ministre, le général La Marmora a bien voulu me communiquer les instructions qu'il vient d'adresser aux autorités politiques et mili-

No. 2077. Frankreich, 8. Nov. 1865.

No. 2077. Frankreich, 8. Nov. 1865.

taires italiennes qui vont se trouver en contact avec les autorités et les troupes pontificales, par suite du retrait d'une partie de notre corps d'occupation. J'ai l'honneur d'adresser ci-joint à Votre Excellence copie de ce document. ¶ Veuillez agréer, etc.

Baron *de Malaret.*

Anlage. — Instructions aux autorités politiques et militaires italiennes sur les frontières pontificales. —

Florence, le 3 novembre 1865.

Italien, 3. Nov. 1865.

Le Gouvernement du Roi, ayant reçu l'avis officiel que, dans un bref délai, les troupes françaises seront remplacées par des troupes pontificales dans les provinces de Viterbe, Velletri et Frosinone, a reconnu l'opportunité de faire adresser, par les départements de l'intérieur et de la guerre, aux autorités respectives relevant d'eux, les instructions que peut exiger la circonstance. ¶ Ces deux départements, s'étant réciproquement communiqué leurs appréciations, sont convenus d'instructions qui, préalablement sanctionnées par le Conseil des ministres, ont été adressées aux autorités politiques et militaires, afin que chacune en fît la base de sa propre conduite pour tout ce qui concerne celles de ses attributions qui se rapportent au fait susmentionné. ¶ Le Gouvernement italien, voulant fidèlement et loyalement exécuter la Convention du 15 septembre 1864, pour laquelle sont engagés la signature du Roi et l'honneur de la Nation, entend que l'article 1er de cette convention soit la règle de conduite de toutes les autorités tant civiles que militaires. Cet article est ainsi conçu: „L'Italie s'engage à ne pas attaquer le territoire actuel du Saint-Père et à empêcher, même par la force, toute attaque venant de l'extérieur contre ledit territoire.“ ¶ Par conséquent, toute tentative quelconque qui pourrait avoir lieu pour violer la frontière actuelle devra être empêchée par tous les moyens dont les autorités civiles et militaires peuvent disposer en se prêtant un appui mutuel. ¶ Pour écarter toute équivoque et tout mal-entendu, il est convenu que la frontière susmentionnée est celle qui a servi jusqu'ici à régler les rapports de juridiction entre les troupes françaises et les troupes italiennes. ¶ Conformément à ces principes, les autorités, tant civiles que militaires, des Provinces limitrophes de ladite frontière, veilleront avec toute l'attention et tout le soin possibles à l'exécution de ces instructions, et en même temps elles prendront toutes les mesures nécessaires pour garantir la vie, la liberté et les propriétés des citoyens paisibles. En conséquence:

Art. 1. Sont maintenus les consignes et les autres détails de service qui avaient été fixés d'un commun accord entre les commandants des troupes italiennes, autorisées à cet effet, et les commandants des troupes françaises, munis d'une autorisation analogue, pour régler les communications, le commerce et les autres relations entre les deux territoires.

Art. 2. Dans le cas où les troupes royales stationnées sur la frontière n'entretiendraient pas avec les troupes pontificales les bons rapports de fraternité qu'elles ont toujours eus avec les troupes françaises, il faudra renoncer à l'idée

de concerter et d'exécuter, d'accord avec les troupes pontificales, des opérations contre les brigands. Cependant on acceptera et on se communiquera mutuellement toutes les indications, avis, informations pouvant faciliter la répression du brigandage, ou contribuer à prévenir ou à découvrir quelque méfait.

Art. 3. Pour éviter les inconvénients qui pourraient résulter du contact de deux armées aussi différentes de caractère, de formation et de discipline, les rapports entre les autorités subalternes de part et d'autre, même à la proximité de la frontière, auront lieu habituellement par voie de correspondance, et les communications seront envoyées à leur destination par l'intermédiaire de la poste ou des carabiniers royaux. ¶ Dans le même but, toutes les fois que faire se pourra, les factionnaires et les postes d'observation se tiendront un peu en arrière de la ligne de frontière susdite, et là où il serait indispensable, pour le maintien de la sûreté publique, comme aux ponts, gués, etc. d'établir des factionnaires et des postes d'observation sur la ligne même, on y emploiera, de préférence, les carabiniers royaux et les douaniers, qui, seuls, devront se mettre en rapport et traiter avec les gendarmes et les douaniers pontificaux. ¶ Enfin, et toujours dans le même but, les patrouilles et les rondes des troupes royales éviteront d'approcher de la ligne frontière, et quand, par suite de la nature du terrain ou de leur service, elles ne pourront faire autrement, elles éviteront d'y rester plus que le temps nécessaire.

Art. 4. Toutes les fois que les autorités pontificales exprimeront la volonté de remettre aux autorités italiennes des brigands ou des malfaiteurs appartenant aux provinces actuelles du royaume, ou qui y auront commis des crimes ou délits, la proposition sera acceptée. Dans ce cas, après avoir obtenu l'autorisation supérieure, on leur remettra en échange les brigands ou malfaiteurs, appartenant aux provinces pontificales actuelles, qui auront commis dans ces dernières provinces des crimes ou autres délits communs et qui se seraient réfugiés sur notre territoire sans s'y être rendus coupables d'autres délits.

Art. 5. Cependant, lorsqu'on aura arrêté des brigands qui, ainsi que cela n'arrive que trop fréquemment, commettent des crimes en passant de l'un à l'autre territoire, on ne les livrera pas aux autorités pontificales, même sur la demande formée ainsi qu'il est dit dans le paragraphe précédent, à moins qu'il ne soit bien constaté qu'il n'existe de notre côté aucun élément de procédure contre eux, et que l'on n'ait l'assurance qu'ils seront jugés par les tribunaux pontificaux.

Art. 6. Dans le cas où il s'élèverait des doutes ou des conflits de juridiction qui ne pourraient être décidés par les autorités locales les plus élevées dans la hiérarchie civile ou militaire, il en sera référé au gouvernement central pour qu'il soit pris les dispositions opportunes.

Art. 7. Le Gouvernement, prévoyant en outre le cas où, par suite de provocation ou de défi, ou pour tout autre motif quelconque, les troupes royales pourraient se trouver excitées à des actes de représailles, entend d'une façon absolue que rien ne puisse les dispenser de l'exécution stricte et loyale des ordres qui leur sont donnés. ¶ En exigeant des troupes royales une telle conduite, qui, dans certaines circonstances, pourrait demander de leur part une abnégation et un sentiment du devoir tout spécial, le Gouvernement du Roi a la ferme con-

No. 2077. Frankreich, 8. Nov. 1865. [Italien, 3. Nov. 1865.]

viction qu'il peut compter sur elles pour s'y conformer, sans que leur susceptibilité militaire puisse jamais se trouver en aucune manière compromise. ¶ Les autorités politiques et militaires, chacune dans la sphère de sa propre action, sont chargées de l'exécution des présentes instructions, tout en maintenant dans les provinces déclarées en état de brigandage les dispositions qui règlent d'une manière spéciale leurs attributions et leurs rapports. Le Gouvernement compte sur leur bonne intelligence réciproque pour atteindre plus facilement le but qu'il s'est proposé par la présente communication.

No. 2078.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Florenz. — Das Verhalten d. Italienischen Regierung d. Päpstlichen Regierung gegenüber. —

Paris, le 19 décembre 1865.

No. 2078. Frankreich, 19. Dec. 1865.

Monsieur le Baron, il est revenu au gouvernement de Sa Majesté que le Cardinal Secrétaire d'État aurait adressé aux Envoyés diplomatiques de Sa Sainteté une dépêche-circulaire à l'occasion du départ d'une partie de nos troupes. Si mes informations sont exactes, ce document, se livrant à des prévisions et à des méfiances que nous nous plaisons à considérer comme étant sans fondement, annonce et trace à l'avance les envahissements futurs du Gouvernement italien, et lui attribue des menées et des excitations tendant à renverser le pouvoir du Pape. ¶ Vous voudrez bien, Monsieur le Baron, déclarer dans les termes les plus formels au Gouvernement italien, au nom de l'Empereur, que l'honneur de Sa Majesté, non moins que celui du Roi Victor-Emmanuel, est engagé à donner à ces prédictions un éclatant démenti. Vous savez quelles sont, en ce qui concerne l'exécution de la Convention du 15 septembre, les vues et les résolutions du Gouvernement de l'Empereur. ¶ Je suis d'avance assuré que les nouvelles déclarations que vous ferez entendre seront de nature à ne laisser aucun doute à cet égard dans l'esprit du Gouvernement italien. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2079.

FRANKREICH. — Ges. in Florenz an den Kais. Min. d. Ausw. — Bericht über eine Unterredung mit dem Italienischen Conseilpräsidenten, die stricte Ausführung der Convention vom 15. Sept. betr. —

Florence, le 3 janvier 1866.

No. 2079. Frankreich, 3. Jan. 1866.

Monsieur le Ministre, ainsi que j'ai eu l'honneur de vous le mander, j'ai jugé à propos d'attendre la constitution définitive du nouveau ministère pour appeler l'attention du général La Marmora sur votre dépêche du 19 décembre. Son Excellence m'a dit que, l'Italie s'étant engagée à exécuter loyalement la Convention du 15 septembre, personne n'avait le droit de supposer au Gouvernement du Roi l'intention de manquer à sa parole. Il a, d'ailleurs, ajouté qu'il n'avait

aucune difficulté à déclarer une fois de plus qu'il désavouait, sans exception aucune, les projets et les sentiments attribués à celui du Roi d'Italie. ¶ J'ai répondu à M. le Président du Conseil que le Gouvernement de l'Empereur n'avait jamais cessé d'avoir la plus grande confiance dans la loyauté du Gouvernement italien, et qu'il croyait lui donner une nouvelle preuve de cette confiance en le mettant au courant de tous les incidents qui peuvent se produire dans une question où l'honneur et l'intérêt de la France se trouvaient également engagés. ¶ Il m'a paru naturel et conforme aux vues de Votre Excellence d'insister sur ces considérations. J'ai dit à M. le Président du Conseil que l'histoire parlementaire des quelques jours qui viennent de s'écouler, sans inspirer aux esprits calmes et patients des craintes sérieuses pour l'avenir de l'Italie, était cependant de nature à faire envisager comme possible, sinon comme probable, la durée plus ou moins prolongée d'une situation intérieure évidemment plus troublée qu'elle ne l'était il y a trois mois. J'ai fait observer que, par suite de l'insuffisance ou de l'incertitude de la majorité, le pouvoir pourrait, à la rigueur, passer en des mains moins anciennement conservatrices que celles qui l'exercent aujourd'hui, et que, dans l'hypothèse où l'accomplissement des engagements contractés par la Convention du 15 septembre devrait être un jour confié à des hommes qui ont combattu cet acte international, il pouvait être opportun de préciser une fois de plus la portée des obligations, désormais irrévocables, auxquelles aucun Gouvernement ne saurait se soustraire en aucun cas et sous aucun prétexte. ¶ J'ai, en outre, fait remarquer au général La Marmora que malheureusement et malgré l'entente établie à ce sujet dans les documents diplomatiques qui ont été publiés, le langage de la presse italienne, et quelquefois celui de certains hommes d'État, n'avait pas toujours été de nature à faire disparaître les équivoques et à décourager les espérances de ceux qui veulent tirer de la Convention de septembre des conséquences qu'elle ne comporte à aucun degré. Il m'a été facile de citer des exemples, et j'ai saisi cette occasion pour renouveler les observations que, dans diverses circonstances, j'avais cru devoir adresser à ce sujet à M. le Président du Conseil. ¶ Votre Excellence connaît trop bien le langage que j'ai constamment tenu, d'après ses ordres, toutes les fois que j'ai eu à parler ici des affaires de Rome, pour que je croie nécessaire de lui rapporter en détail mon entretien avec le général La Marmora. ¶ En résumé, j'ai constaté une fois de plus, 1º que, contrairement à ce qui s'imprime journellement dans la presse italienne (en dehors du Gouvernement, cela va sans dire), nous avions entendu, en signant la Convention du 15 septembre, assurer la coexistence en Italie de deux souverainetés distinctes: celle du Pape, réduite aux proportions où elle est aujourd'hui, et celle du royaume d'Italie; ¶ 2º que ces mots de moyens moraux, dont on a un peu abusé, signifient pour nous la persuasion, l'esprit de conciliation, l'influence des intérêts moraux et matériels, enfin l'effet du temps qui, en calmant les passions, doit faire disparaître un jour les obstacles qui se sont opposés jusqu'à présent à la réconciliation d'une Puissance éminemment catholique avec le chef de la catholicité; ¶ 3º enfin que, pour toutes les éventualités non prévues par la Convention, la France s'est formellement réservé la liberté d'action la plus absolue, sans restriction d'aucune espèce. ¶ Votre

No. 2079. Frankreich, 3. Jan. 1866.

Excellence m'approuvera, j'en suis certain, d'avoir, en terminant cette conversation, renouvelé au général La Marmora le témoignage de la confiance que la loyauté de son caractère n'a jamais cessé d'inspirer au Gouvernement de l'Empereur. Je lui ai dit que, tant qu'il resterait au pouvoir, nous avions la certitude que la Convention du 15 septembre serait exécutée dans l'esprit de conciliation, d'équité et de justice qui en a dicté les dispositions. J'ai ajouté que, même dans le cas où les vicissitudes de la vie parlementaire lui donneraient un jour des successeurs dont les opinions sur la question romaine n'ont été jusqu'à présent ni les siennes ni les nôtres, le respect et l'estime que nous avions pour l'Italie ne nous permettaient pas de révoquer en doute la stricte exécution du traité. ¶ Veuillez agréer, etc.

Baron *de Malaret.*

III. Mission de M. Vegezzi à Rome.

No. 2080.

FRANKREICH. — Botschafter in Rom an den K. Min. d. Ausw. — Ein Schreiben des Papstes an den König Victor Emanuel betr. —

Rome, le 28 mars 1865.

No. 2080. Frankreich, 28. März 1865.

Monsieur le Ministre, le Cardinal Secrétaire d'État, à qui je n'ai pas laissé ignorer les nouvelles démarches que Votre Excellence se proposait de faire près du cabinet de Turin, pour l'engager à envoyer à Rome un agent spécialement chargé de traiter officieusement les questions religieuses pendantes entre le royaume d'Italie et le Saint-Siége, m'a annoncé que le Saint-Père avait écrit au Roi Victor-Emmanuel pour lui représenter la condition déplorable dans laquelle l'absence des évêques de leurs postes laissait un nombre considérable de diocèses en Italie. ¶ Le Cardinal a ajouté que cette lettre avait été remise au Roi, la veille de son départ de Florence, en audience privée, par la personne à qui elle avait été confiée. Son Éminence manifeste l'espoir que cette démarche spontanée du Souverain Pontife ouvrira, dans le domaine religieux, les voies à un arrangement qui profitera aux relations générales des deux pays. ¶ Agréez, etc.

Sartiges.

No. 2081.

FRANKREICH. — Botschafter in Rom an den Kais. Min. d. Ausw. — Eindruck der Nachricht, dass der Papst an den König Victor Emanuel geschrieben. —

Rome, le 15 avril 1865.

No. 2081. Frankreich, 15. April 1865.

Monsieur le Ministre, la nouvelle que j'ai transmise le 28 mars à Votre Excellence, que Sa Sainteté avait pris l'initiative d'écrire directement au Roi Victor-Emmanuel pour l'engager à régler la question des évêchés vacants en Italie, commence à se répandre dans Rome, et les esprits modérés sont unanimes

à louer cette détermination de Pie IX; par contre, les partis extrêmes, ultra-montains et unitaires, qui, pour des causes différentes, sont également hostiles à toute conciliation avec l'Italie, ne dissimulent pas leur mécontentement. ¶ Agréez, etc. *Sartiges.*

No. 2081. Frankreich, 15. April 1865.

No. 2082.

FRANKREICH. — Botschafter in Rom an den Kais. Min. d. Ausw. — Die Mission des Herrn Vegezzi betr. —

Rome, le 29 avril 1865.

No. 2082. Frankreich, 29. April 1865.

Monsieur le Ministre, l'intérêt du moment est tout entier dans la mission de M. Vegezzi. J'encourage M. Vegezzi, d'une part, le Cardinal Antonelli, de l'autre, à profiter des circonstances pour entrer le plus avant qu'il leur sera possible dans la voie des accommodements, et je leur répète, à l'un comme à l'autre, que le Gouvernement de l'Empereur ne pourra que leur savoir gré de tout ce qui facilitera la loyale exécution de la Convention du 15 septembre, c'est-à-dire le retrait de nos troupes, laissant derrière elles Rome et l'Italie vivant en bons rapports de voisinage. ¶ Agréez, etc.

Sartiges.

No. 2083.

FRANKREICH. — Botschaft. in Rom an den Kais. Min. d. Ausw. — Der Stand der Unterhandlungen zwischen Vegezzi und Cardinal Antonelli betr. —

Rome, le 20 juin 1865.

No. 2083. Frankreich, 20. Juni 1865.

Monsieur le Ministre, les pourparlers entre le Cardinal Antonelli et M. Vegezzi semblent arrivés à leur terme. Un des trois points sur lesquels porte la délibération demeure acquis, c'est le retour facultatif dans leurs diocèses des vingt-neuf évêques dont parlent mes dernières dépêches. Mais la Cour de Rome ne croit pas pouvoir se départir de son opinion sur le serment et *l'exequatur*. ¶ Si incomplet que soit le résultat, M. Vegezzi le considère comme important. La voie reste ouverte à de nouvelles tentatives, qui pourront être faites en temps opportun. Le négociateur italien croit savoir que tel est aussi le sentiment du Saint-Père. ¶ Agréez, etc. *Sartiges.*

No. 2084.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in Rom. — Die Unterbrechung der Unterhandlungen zwischen Vegezzi und Cardinal Antonelli betr. —

Paris, le 27 juin 1865.

No. 2084. Frankreich, 27. Juni 1865.

Monsieur le Comte, les dernières informations que vous m'avez fait l'honneur de m'adresser, concernant la mission de M. Vegezzi, n'ont pas répondu

No. 2084. Frankreich, 27. Juni 1865.

aux espérances que les dispositions conciliantes d'abord manifestées de part et d'autre nous avaient fait concevoir. Ce n'est pas sans un vif regret que nous apprenons la rupture, ou du moins l'interruption et l'ajournement indéfini d'une négociation dont, à notre avis, le succès n'importait pas moins aux intérêts de la Cour de Rome qu'à ceux de l'Italie. ¶ Vous savez quelle a été la ligne de conduite adoptée par le Gouvernement de l'Empereur en présence de cette négociation. Après l'avoir appelée de ses vœux et facilitée peut-être par ses conseils, il avait cru devoir, une fois les pourparlers entamés entre le Pape et le Roi Victor-Emmanuel, se renfermer dans une entière réserve. Il avait pensé que, dans une question d'un caractère aussi délicat, et en même temps essentiellement italien, ce qu'il avait de mieux à faire était de se tenir à l'écart, de ne chercher aucune immixtion dans les négociations, et de laisser aux deux Gouvernements intéressés le soin d'assurer entre eux un accord dont, mieux que personne, ils pouvaient trouver les moyens et apprécier les avantages. ¶ A Rome, pas plus qu'à Florence, on n'a pu se méprendre sur l'attitude que nous avons gardée depuis le commencement de la négociation; je me plais même à croire qu'on a dû y voir une nouvelle marque d'intérêt de notre part, puisqu'elle nous a été uniquement dictée par le désir de laisser à la Cour pontificale, comme à celle d'Italie, tout le bénéfice d'une transaction accomplie entre elles par le seul effet de leur bon vouloir mutuel. ¶ Nous n'en sommes que mieux fondés sans doute à leur dire combien il nous paraît fâcheux qu'une négociation commencée sous de si heureux auspices n'ait pas tenu ce que l'on s'en était promis. Je ne rechercherai pas si, d'un côté comme de l'autre, on s'est prêté à toutes les concessions possibles et désirables pour arriver à une entente. Pour ce qui concerne en particulier la Cour de Rome, je ne voudrais pas entrer dans une appréciation qui risquerait d'éveiller certaines susceptibilités. Je ne puis cependant m'abstenir de faire remarquer que le moment de s'entendre avec le Gouvernement italien, pour le règlement d'intérêts si justement chers au Pape et au Saint-Siége, était peut-être plus opportun qu'il ne le sera plus tard. ¶ La Cour de Rome ne saurait rester indifférente à un événement qui doit aujourd'hui être considéré comme prochain, c'est-à-dire la reconnaissance du royaume d'Italie par l'Espagne. Cette mesure fait partie en effet du programme présenté à la Reine par le nouveau Cabinet dont le maréchal O'Donnell est le chef et agréé par Sa Majesté Catholique: il faut donc s'attendre à la voir bientôt réalisée. ¶ Vous n'ignorez pas non plus, Monsieur le Comte, les tendances qui se manifestent en ce moment en Allemagne et surtout en Prusse, dans un sens favorable à la reconnaissance du royaume d'Italie par la Confédération germanique. Il est sérieusement question, comme vous le savez, de la négociation d'un traité de commerce entre le Zollverein et l'Italie, et tout annonce que la reconnaissance du royaume italien sera la condition et deviendra le préliminaire d'une transaction qui est considérée comme très-avantageuse aux intérêts commerciaux des deux parties. ¶ Je suis tellement frappé de ce qu'il y avait de favorable et d'opportun dans les circonstances actuelles pour mener à bonne fin la négociation entamée entre Rome et Florence, que je me plais encore à penser qu'elle n'est que momentanément suspendue, et que les deux Souverains, qui s'étaient montrés

également empressés de l'ouvrir, auront à cœur de la reprendre avec le désir d'en assurer le succès par de mutuelles concessions. ¶ Je verrais avec plaisir que vous eussiez l'occasion de vous expliquer avec le cardinal Antonelli et avec le Pape lui-même dans le sens de la présente dépêche, sans vous départir d'ailleurs de l'attitude que vous avez gardée jusqu'à présent. ¶ Agréez, etc.

No. 2084. Frankreich, 27. Juli 1865.

Drouyn de Lhuys.

No. 2085.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten im Auslande. — Bericht über die Unterhandlungen zwischen Vegezzi und Cardinal Antonelli. —

Paris, le 29 juin 1865.

No. 2085. Frankreich, 29. Juni 1865.

Monsieur, l'Empereur a tracé à la politique de la France en Italie un but que le Gouvernement de Sa Majesté poursuit avec persévérance et qu'il ne veut pas désespérer d'atteindre, malgré les difficultés de la tâche. Tous ses efforts tendent à faire triompher les idées de conciliation entre la Papauté et le nouvel État qui s'est formé dans la Péninsule. Nous croyons avoir obtenu à cet égard un important résultat en signant la Convention du 15 septembre. Un véritable apaisement s'est manifesté depuis lors dans les esprits et se fait chaque jour sentir davantage. Nous ne saurions attribuer à une autre cause les pourparlers qui se sont ouverts à Rome entre le Gouvernement italien et le Saint-Siége pour le règlement des difficultés religieuses. Nous en avions encouragé la pensée, et, tout en demeurant étrangers aux détails de la négociation, nous nous sommes félicités de voir les deux Cours s'aboucher ensemble pour débattre d'un commun accord les rapports de l'Église avec l'État. ¶ Ainsi que vous le savez déjà, ces négociations viennent d'éprouver un temps d'arrêt; M. Vegezzi est allé soumettre aux Ministres du Roi les explications que comporte l'état de la discussion entre les deux Cours. Tel est du moins le caractère qui a été donné à l'interruption des délibérations. Les parties ne se sont pas séparées d'ailleurs sans s'être entendues sur un point, qui n'est pas le plus important, à la vérité, mais qui a cependant de l'intérêt pour l'Église. Elles ne sont point parvenues à se mettre d'accord relativement à *l'exequatur* et au serment; mais, sous certaines réserves acceptées par le Saint-Siége, l'Italie a concédé la rentrée des évêques absents dans leurs diocèses. Les sentiments qui ont porté les deux Cours à se mettre en rapports directs, de même que les dispositions qui se sont manifestées au début de leurs pourparlers, avaient donné l'espoir d'un résultat plus complet. Leurs efforts ne sont point toutefois demeurés inutiles, et les négociateurs ont laissé le champ ouvert aux nouvelles démarches que les Gouvernements pourraient juger opportun de reprendre dans un temps plus ou moins éloigné. ¶ Pour apprécier l'importance de ce rapprochement, il suffit de se rappeler l'attitude réciproque des deux Cours avant la signature de la Convention du 15 septembre: d'un côté, la politique agressive de l'Italie dans la question romaine; de l'autre, toute la vivacité des sentiments que de pareilles tendances devaient nécessairement inspirer. Il semblait alors qu'il n'y eût aucune place pour un échange d'idées

No. 2085. Frankreich, 29. Juni 1865.

amical, même sur les questions purement religieuses. Nous venons de voir, au contraire, le Saint Père, s'élevant au-dessus des dissentiments politiques, écouter la seule inspiration de sa conscience, et adresser au Roi d'Italie un appel qui a été accueilli par Sa Majesté avec une déférence empressée. ¶ Rien ne pouvait mieux répondre à nos vœux que les rapports qui se sont ainsi établis entre les deux Cours italiennes. Si nous avons à regretter que cette négociation n'ait pas porté immédiatement tous ses fruits, nous conservons l'espoir qu'elle pourra se renouer et avoir une heureuse issue. N'étant pas intervenus pour la diriger, nous ne désirons point exercer une action plus directe pour en amener la reprise. Nous applaudirons d'autant plus à ces tentatives de conciliation que les deux Souverains auront moins besoin de notre concours, et qu'ils s'habitueront plus vite à se passer de tout intermédiaire pour régler entre eux leurs intérêts communs. C'est en ce sens que vous êtes autorisé à vous exprimer dans les entretiens dont la mission de M. Vegezzi pourra être l'objet autour de vous. ¶ Agréez, etc.

Drouyn de Lhuys.

IV. Arrangement financier pour la dette pontificale.

No. 2086.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Florenz. — Ansichten der Französ. Reg. über den Ort und den Modus der Unterhandlungen in Betreff der Regulirung der Päpstlichen Schuld. —

Paris, le 18 novembre 1865.

No. 2086. Frankreich, 18. Nov. 1865.

Monsieur le Baron, en m'entretenant avec M. le Ministre d'Italie du commencement d'exécution que recevait la Convention du 15 septembre, par le départ d'une partie de nos troupes, j'ai eu occasion de lui rappeler que le moment était venu de nous entendre sur la disposition de cet acte qui est relative au partage de la dette pontificale; je l'ai prié d'appeler sur cette question importante l'attention de M. le général La Marmora. ¶ Monsieur le chevalier Nigra est venu, il y a peu de jours, me communiquer la réponse qu'il avait reçue de M. le Président du Conseil. Un premier examen avait conduit Son Excellence à se poser quelques questions de détail sur lesquelles elle désirait avoir mon avis. Quel serait, par exemple, le lieu où l'affaire se traiterait? avec qui ou entre qui serait-elle traitée? enfin sous quelle forme la discussion et la négociation auraient-elles lieu? ¶ J'ai répondu à M. le Ministre d'Italie que, le Gouvernement de l'Empereur devant être l'intermédiaire obligé entre Rome et Florence dans cette affaire, Paris me semblait naturellement indiqué pour être le centre des communications ou des pourparlers auxquels donnerait lieu cette négociation. J'ai ajouté que l'affaire devait, à mon avis, être directement suivie entre lui et moi, en la forme habituelle; que la nomination d'une commission, hypothétiquement mentionnée dans la dépêche de M. le général La Marmora, et à laquelle on remettrait le soin de préparer les bases de l'arrangement, ne me paraissait pas nécessaire; qu'ainsi nous procéderions suivant les circonstances, soit par correspondance entre mon département et la légation d'Italie, soit par

des conférences verbales; que j'en référerais au besoin à la Cour de Rome, comme M. Nigra lui-même au Gouvernement italien, et que de part et d'autre nous ferions appel, autant qu'il serait nécessaire, aux lumières des hommes possédant des connaissances spéciales; enfin que les incidents de la négociation nous suggéreraient la meilleure marche à suivre pour les points de détail qu'il était impossible de prévoir d'avance. ¶ Quant à la forme de l'acte destiné à consacrer le résultat final de la négociation, et dont il était également parlé dans la dépêche de M. le général La Marmora, j'ai fait remarquer à M. le Ministre d'Italie qu'il nous serait facile de la déterminer quand le moment serait venu. ¶ En exprimant mon opinion à M. le chevalier Nigra, j'ai ajouté que je me réservais de prendre les ordres de l'Empereur sur les divers points que nous venions d'aborder. ¶ Vous pourrez, à la première occasion, faire part à M. le général La Marmora des informations que j'ai l'honneur de vous transmettre, et que M. Nigra lui aura, je suppose, directement rapportées. ¶ Recevez, etc. *Drouyn de Lhuys.*

No. 2086. Frankreich, 18. Nov. 1865.

No. 2087.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Florenz. — Die bevorstehenden Unterhandl. in Betreff d. Regulirung d. Päpstl. Schuld betr. —

Paris, le 21 novembre 1865.

No. 2087. Frankreich, 21. Nov. 1865.

Monsieur le Baron, j'ai soumis à l'Empereur la manière de voir que j'avais exprimée à M. le Ministre d'Italie sur diverses questions se rattachant à la négociation relative au partage de la dette pontificale, et Sa Majesté a bien voulu l'approuver. Le programme que je vous ai indiqué peut donc être considéré comme officiel, en ce qui nous concerne, et je vous prie d'en informer le général La Marmora. ¶ Il ne s'agit plus aujourd'hui, Monsieur le Baron, que d'exécuter l'article 4 de la Convention, et c'est à la France et à l'Italie seules qu'il appartient d'en rechercher les moyens. Je reconnais que la question est délicate et difficile; mais nous sommes dans l'obligation de la résoudre, et il me semble à première vue que la difficulté est loin d'être insurmontable. Je ne vois pas, par exemple, une fois l'accord établi sur le chiffre des intérêts à servir par le Trésor italien, ce qui s'opposerait à ce que le montant de chaque semestre fût versé aux mains de M. de Rothschild, qui continuerait, comme par le passé, à payer les porteurs des anciens titres de la dette pontificale, sauf à inscrire sur ces titres telle ou telle estampille indiquant que le payement s'effectue au nom du Gouvernement italien. ¶ En ce qui concerne le Trésor italien, je me persuade que le Cabinet de Florence obtiendrait aisément un vote favorable des Chambres sur un article qui inscrirait au budget des dépenses du royaume une somme indiquée simplement comme destinée à pourvoir à l'exécution de l'article 4 de la Convention du 15 septembre. ¶ Je ne prétends point, d'ailleurs, suggérer ici aucune des solutions que nous aurons à rechercher de concert avec le Gouvernement italien; mais il m'a semblé qu'il n'était pas inutile de vous communiquer à cet égard mes premières impressions. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2088.

FRANKREICH. — Min. d. Ausw. an den Kais. Botsch. in Rom. — Ersuchen um nähere Angaben von Seiten der Päpstlichen Regierung über den Betrag der vom Königr. Italien zu übernehmenden Päpstl. Schuld. —

Paris, le 19 décembre 1865.

No. 2088. Frankreich, 19. Dec. 1865.

Monsieur le Comte, j'ai trouvé jointe à votre dernière dépêche la note verbale par laquelle le Cardinal Antonelli vous a fait connaître les intentions de la Cour de Rome quant à la négociation que nous nous proposons d'entamer avec l'Italie, en exécution de l'article 4 de la Convention du 15 septembre. Du moment que le Gouvernement du Saint-Père accueille favorablement l'arrangement financier qui doit avoir pour effet de mettre à la charge de l'Italie la portion de la dette afférente aux anciennes provinces pontificales, je suppose qu'il ne fera aucune difficulté de nous communiquer les renseignements qui peuvent nous aider à fixer le chiffre de cette partie de la dette. Vous voudrez donc bien, Monsieur le Comte, vous adresser, à cet effet, au Cardinal Antonelli, et me transmettre toutes les informations que vous aurez recueillies. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2089.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Florenz. — Ersuchen um nähere Angaben in Betreff der Theilung der Päpstl. Schuld. —

Paris, le 21 décembre 1865.

No. 2089. Frankreich, 21. Dec. 1865.

Monsieur le Baron, j'attacherais beaucoup de prix à recueillir le plus tôt possible les renseignements qui pourront nous aider à fixer en connaissance de cause la portion de la dette pontificale qui, aux termes de la Convention du 15 septembre, devra être mise à la charge du Gouvernement italien. J'ai prié l'Ambassadeur de Sa Majesté à Rome de me transmettre les informations qu'il sera en mesure de recueillir, et je vous prie également de me communiquer sans retard les indications ou les documents que vous aurez pu vous procurer. ¶ Recevez, etc.

Drouyn de Lhuys.

VISITES DES ESCADRES DE FRANCE ET D'ANGLETERRE.

No. 2090.

FRANKREICH. — Botschaft. in London an den Kais. Min. d. Ausw. — Zustimmung der Brit Regierung zum Besuche der Englischen Panzerflotte in Cherbourg oder Brest. —

Londres, le 18 juin 1865.

No. 2090. Frankreich, 18. Juni 1865.

Monsieur le Ministre, j'ai entretenu le comte Russell de l'échange de visites projeté entre les escadres cuirassées de France et d'Angleterre. Il m'a dit qu'il pensait que l'escadre britannique pourrait facilement, dans les premiers

jours d'août, se rendre soit à Cherbourg, soit à Brest, et y séjourner pendant la fête de l'Empereur, si cette combinaison convient au Gouvernement de Sa Majesté. J'ai remercié le Principal Secrétaire d'État des dispositions qu'il me témoignait, et lui ai promis de vous en informer immédiatement. Je serai reconnaissant à Votre Excellence de vouloir bien me faire connaître, aussitôt que possible, les intentions du Gouvernement impérial à cet égard. ¶ Veuillez agréer, etc.

No. 2090. Frankreich, 18. Juni 1865.

Prince *de la Tour d'Auvergne.*

No. 2091.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in London. — Bestimmung des Zeitpunktes für den Besuch der Engl. Flotte in Frankreich. —

Paris, le 21 juin 1865.

Prince, j'ai reçu la dépêche par laquelle vous m'annoncez que l'escadre anglaise sera prête à se rendre en France dans les premiers jours d'août. En vous donnant cet avis, lord Russell a bien voulu ajouter que le Gouvernement de Sa Majesté Britannique est disposé à s'en remettre à nous du soin de déterminer le moment qui nous paraîtra le plus opportun pour recevoir cette visite. Je vous prie de l'en remercier en notre nom et de lui dire que l'escadre anglaise sera la bienvenue vers le 15 août si cette date répond aux convenances des Lords de l'Amirauté. Aucun moment ne saurait être plus agréable au Gouvernement de l'Empereur, et nous nous féliciterons d'une coïncidence qui ne pourra que donner un nouveau prix pour nous à la présence du pavillon britannique dans les eaux françaises. ¶ Agréez, etc.

No. 2091. Frankreich, 21. Juni 1865.

Drouyn de Lhuys.

No. 2092.

FRANKREICH. — Botschafter in London an den Kais. Min. d. Ausw. — Zustimmung der Brit. Regierung zum Besuche der Engl. Flotte in Frankreich am 15. August und Anfrage über die Zeit des Gegenbesuches der Französ. Flotte in England. —

Londres, 23 juin 1865.

Monsieur le Ministre, j'ai reçu la dépêche que Votre Excellence m'a fait l'honneur de m'adresser le 21 de ce mois, et je me suis empressé d'en donner connaissance au Principal Secrétaire d'État. Lord Russell a bien voulu me dire que les dispositions nécessaires seraient prises pour que l'escadre se trouvât en France le jour même de la fête de l'Empereur, et que le Premier Lord de l'Amirauté projetait de l'accompagner. ¶ Lord Russell m'a demandé, à cette occasion, si je savais à quelle époque l'escadre française se proposait de venir sur les côtes d'Angleterre. J'ai répondu au Principal Secrétaire d'État que, d'après les informations que vous m'aviez transmises, elle serait réunie vers la fin d'août ou le

No. 2092. Frankreich, 23. Juni 1865.

No. 2092. Frankreich, 23. Juni 1865

commencement de septembre, et qu'elle s'empresserait de rendre à l'escadre anglaise la visite qui nous est annoncée pour le 15 août. ¶ Veuillez agréer, etc.

Prince *de la Tour d'Auvergne.*

No. 2093.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in London. — Ankündigung des Besuchs der Französ. Flotte in Plymouth am 17. Juli. —

Paris, le 29 juin 1865.

No. 2093. Frankreich, 29. Juni 1865.

Prince, je vous invite à annoncer à lord Russell qu'en attendant le moment où notre escadre sera en mesure de paraître dans les ports anglais, M. le ministre de la marine a décidé d'envoyer deux ou trois de nos bâtiments aux fêtes qui auront lieu le 17 juillet à Plymouth. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2094.

FRANKREICH. — Geschäftstr. in London an den Kais. Min. d. Ausw. — Die Festlichkeiten zum bevorstehenden Besuch der Französ. Flotte in Portsmouth betr. —

Londres, le 14 août 1865.

No. 2094. Frankreich, 14. Aug. 1865.

Monsieur le Ministre, j'ai reçu du Maire de Portsmouth la lettre que j'ai l'honneur de transmettre à Votre Excellence, par laquelle ce magistrat me fait parvenir les résolutions adoptées dans un meeting tenu dans cette ville pour arrêter le programme des fêtes qui seront offertes à l'escadre impériale, lors de sa visite. Ainsi que le dit M. R. W. Jord à la fin de sa lettre, il est permis d'assurer que les sentiments des habitants de Portsmouth sont aujourd'hui ceux de toutes les classes du peuple anglais, et l'on peut affirmer que notre pavillon trouvera dans les ports où il se présentera l'accueil le plus cordial. ¶ J'oserai prier Votre Excellence de vouloir bien, lorsque cela lui sera possible, me mettre au courant des mouvements de l'escadre, et m'indiquer les ports qu'elle sera autorisée à visiter; on me pose sans cesse, à cet égard, des questions qui partent d'un sentiment de sympathie auquel je serais heureux de pouvoir répondre. ¶ Veuillez agréer, etc.

Baron *Baude.*

No. 2095.

FRANKREICH. — Geschäftstr. in London an den Kais. Min. d. Ausw. — Bericht über den Besuch der Französ. Flotte in Portsmouth. —

Londres, le 31 août 1865.

No. 2095. Frankreich, 31. Aug. 1865.

Monsieur le Ministre, l'escadre impériale est arrivée à Portsmouth le 29 à midi; j'avais quitté Londres dans la matinée pour assister à son entrée, et j'ai cru répondre aux intentions de Votre Excellence en allant, au nom de l'Am-

bassade, souhaiter la bienvenue à M. le marquis de Chasseloup-Laubat et à M. le vice-admiral Bouët-Willaumez. Dans la soirée le duc de Sommerset, Premier Lord de l'Amirauté, nous a offert un banquet à bord du *Duc-de-Wellington*. L'accueil fait à l'escadre par les officiers de terre et de mer, comme par la population de Portsmouth, a été aussi cordial et sympathique qu'il était possible de l'espérer. Cette réunion de nos forces navales et la manifestation des sentiments qu'elle a provoqués laisseront dans l'esprit public de l'Angleterre les souvenirs les plus favorables aux bons rapports des deux Cabinets. ¶ Veuillez agréer, etc.

Baron *Baude*.

No. 2095. Frankreich, 31. Aug. 1865.

NAVIGATION DU DANUBE.

No. 2096.

FRANKREICH. — Delegirter zur Europäischen Donau-Commission an den Kais. Min. d. Ausw. — Die Unterzeichnung einer Convention bezügl. der Donauschifffahrt betr., nebst Zusendung d. betreffenden Documente. —

Galatz, le 4 novembre 1865.

No. 2096. Frankreich, 4. Nov. 1865.

Monsieur le Ministre, la Convention du bas Danube a été signée le 2 novembre par les sept Commissaires des Puissances représentées au Congrès de Paris. ¶ J'ai, en conséquence, l'honneur d'adresser à Votre Excellence, en expéditions originales:

1⁰. Le Protocole de signature, intitulé Protocole final;

2⁰. L'Acte public ou instrument principal de la Convention relative à la navigation des embouchures du Danube;

3⁰. Le Règlement de navigation et de police y annexé;

4⁰. Le Tarif des droits de navigation y annexé.

Ces documents seront suivis d'une copie de l'arrangement signé le même jour, en deux originaux, et qui détermine le mode de remboursement des avances faites par la Sublime Porte pour l'amélioration de la navigabilité du bas Danube. ¶ Veuillez agréer, etc.

Engelhardt.

Anlage 1. — Protocole Final.

Séance du 2 novembre 1865.

Pariser Congress-mächte, 2. Nov. 1865.

Présents:

Pour l'Autriche, M. le Chevalier *de Kremer*;

Pour la France, M. *Engelhardt*;

Pour la Grande-Bretagne, M. *Stokes*;

Pour l'Italie, M. le Chevalier *Strambio*;

Pour la Prusse, M. *Saint-Pierre*;

Pour la Russie, M. le Baron *d'Offenberg*;

Pour la Turquie, *Ahmet Rassim-Pacha*.

Les Commissaires soussignés ont collationné sur les instruments parafés dans la séance du 26 octobre dernier:

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1⁰. L'Acte public ou instrument principal de la Convention relative à la navigation des embouchures du Danube;

2⁰. Le Règlement de navigation et de police;

3⁰. Et le Tarif des droits de navigation.

Ces différents actes ont été trouvés en bonne et due forme.

En ce qui concerne l'article 9 de l'Acte public, les Délégués de l'Autriche, de la France, de la Grande-Bretagne, de l'Italie, de la Prusse et de la Russie ont déclaré collectivement, en vertu d'instructions spéciales, que, tout en reconnaissant aux Agents préposés à la police fluviale sur le bas Danube les attributions que leur confère le Règlement de navigation et de police annexé audit Acte public, ils les considèrent comme fonctionnant sous la direction de la Commission européenne et comme revêtus d'un caractère international. ¶ Il a été bien entendu que l'insertion de cette déclaration ne devait pas impliquer, de la part de la Sublime Porte, une consécration à perpétuité de ce principe, ni ne devait apporter le moindre préjudice aux droits des États riverains et aux principes établis par le Congrès de Paris. ¶ Il a été relevé de plus, touchant l'article 17 dudit Acte, que, postérieurement à la rédaction du projet primitif devenu l'objet de l'entente commune des Gouvernements intéressés, la Commission européenne a fait construire et entretient de ses propres fonds un phare à l'embouchure de Saint-Georges; qu'en conséquence, la clause de l'article dont il s'agit, portant que la quote-part, représentant les droits de phare dans le montant des taxes perçues à Soulina, qui sera versée à l'Administration générale des phares de l'Empire ottoman, doit être restreinte en ce sens, que les versements à effectuer à ladite Administration ne comprendront d'autres sommes que celles qui sont actuellement prélevées en sa faveur, à titre de droits de phare, et que la Commission européenne continuera, comme par le passé, à retenir le produit de la taxe spéciale imposée aux bâtiments pour couvrir les frais d'entretien et d'éclairage du phare de Saint-Georges. ¶ Au moment de procéder à la signature de l'Acte public, le Délégué de la Turquie, en sa qualité de Président de la Commission européenne, a fait observer que cet Acte, ayant pour objet des intérêts essentiellement commerciaux, devait avoir pour effet de faciliter les relations réciproques des divers États, sans préjudicier en rien, au point de vue politique, à l'attitude respective des Gouvernements entre eux. ¶ Les Commissaires ont ensuite revêtu de leurs signatures et du sceau de leurs armes l'Acte public relatif à la navigation des embouchures du Danube et ses deux annexes. ¶ Après quoi, il a été procédé également à la signature de l'arrangement relatif au remboursement des avances faites à la Commission par la Sublime Porte pour l'amélioration de la navigabilité des embouchures du Danube, arrangement dont le projet se trouve joint au Protocole Nr. CXL (Nr. III). Cet Acte a été signé en deux originaux, dont l'un est demeuré annexé au présent Protocole. ¶ Il a été relevé à cet égard, que l'arrangement dont il s'agit ne comprend que les avances et prestations faites par la Sublime Porte antérieurement au 2 décembre 1861; que, depuis cette époque, le Gouvernement impérial ottoman a versé encore à la Commission européenne, à la date du 31 décembre 1863, une somme de onze mille huit cent vingt-sept ducats, laquelle devra être remboursée par la Commission

en dehors des annuités stipulées pour l'amortissement de la créance principale de la Sublime Porte. ¶ Le présent Protocole, rédigé en huit originaux, dont l'un restera déposé aux Archives de la Commission, a été lu, approuvé et revêtu de la signature des Commissaires. ¶ Fait à Galatz, le deux novembre mil huit cent soixante-cinq.

A. de Kremer. *Ed. Engelhardt.* *J. Stokes.* *Strambio.*
Saint-Pierre. *Offenberg.* *Ahmet Rassim.*

Anlage 2. — Acte public relatif à la navigation des embouchures du Danube. —

Une Commission européenne ayant été instituée par l'article 16 du Traité de Paris du 30 mars 1856 pour mettre la partie du Danube située en aval d'Isaktcha, ses embouchures et les parties avoisinantes de la mer, dans les meilleures conditions possibles de navigabilité; ¶ Et ladite Commission, agissant en vertu de ce mandat, étant parvenue, après neuf années d'activité, à réaliser d'importantes améliorations dans le régime de la navigation, notamment par la construction de deux digues à l'embouchure du bras de Soulina, lesquelles ont eu pour effet d'ouvrir l'accès de cette embouchure aux bâtiments d'un grand tirant d'eau; par l'exécution de travaux de correction et de curage dans le cours du même bras; par l'enlèvement des bâtiments naufragés et par l'établissement d'un système de bouées; par la construction d'un phare à l'embouchure de Saint-Georges; par l'institution d'un service régulier de sauvetage et par la création d'un hôpital de la marine à Soulina; enfin, par la réglementation provisoire des différents services de navigation sur la section fluviale située entre Isaktcha et la mer; ¶ Les Puissances qui ont signé ledit Traité, conclu à Paris le 30 mars 1856, désirant constater que la Commission européenne, en accomplissant ainsi une partie essentielle de sa tâche, a agi conformément à leurs intentions, et voulant déterminer par un acte public les droits et obligations que le nouvel état de choses établi sur le bas Danube a créés pour les différents intéressés, et notamment pour tous les pavillons qui pratiquent la navigation du fleuve, ont nommé pour leurs Plénipotentiaires, ¶ Savoir: — — — Lesquels, après avoir exhibé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

TITRE I.

Dispositions relatives aux conditions matérielles de la navigation.

Article premier. Tous les ouvrages et établissements créés en exécution de l'article 16 du Traité de Paris du 30 mars 1856, avec leurs accessoires et dépendances, continueront à être affectés exclusivement à l'usage de la navigation danubienne, et ne pourront jamais être détournés de cette destination, pour quel-

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que motif que ce soit; à ce titre, ils sont placés sous la garantie et la sauvegarde du droit international. La Commission européenne du Danube, ou l'autorité qui lui succédera en droit, restera chargée, à l'exclusion de toute ingérance quelconque, d'administrer au profit de la navigation ces ouvrages et établissements, de veiller à leur maintien et conservation, et de leur donner tous les développements que les besoins de la navigation pourront réclamer.

Art. 2. Sera spécialement réservée à la Commission européenne, ou à l'autorité qui lui succédera, la faculté de désigner et de faire exécuter tous travaux qui seraient jugés nécessaires dans le cas où l'on voudrait rendre définitives les améliorations, jusqu'aujourd'hui provisoires, du bras et de l'embouchure de Soulina, et pour prolonger l'endiguement de cette embouchure, au fur et à mesure que l'état de la passe pourra l'exiger.

Art. 3. Il demeurera réservé à ladite Commission européenne d'entreprendre l'amélioration de la bouche et du bras de Saint-Georges, arrêtée d'un commun accord et simplement ajournée quant à présent.

Art. 4. La Sublime Porte s'engage à prêter, à l'avenir comme par le passé, à la Commission européenne ou à l'autorité qui lui succédera, toute l'assistance et tout le concours dont l'une ou l'autre pourra avoir besoin pour l'exécution des travaux d'art et généralement pour tout ce qui concernera l'accomplissement de sa tâche. Elle veillera à ce que les rives du Danube, depuis Isaktcha jusqu'à la mer, demeurent libres de toutes bâtisses, servitudes et autres entraves quelconques, et elle continuera, sous la réserve des redevances annuelles auxquelles les biens-fonds sont soumis en Turquie, à laisser à la disposition de la Commission, dans le port de Soulina, la rive gauche, à partir de la racine de la digue du Nord, sur une distance de 760 mètres en remontant le fleuve et sur une largeur de 150 mètres en partant de la rive. ¶ Elle consent, de plus, à concéder un emplacement convenable sur la rive droite pour les constructions que ladite Commission, ou l'autorité qui lui succédera, jugerait utile d'élever pour le service du port de Soulina, pour l'hôpital de la marine et pour les autres besoins de l'Administration.

Art. 5. Pour le cas où la Commission européenne ferait usage de la réserve mentionnée dans l'art. 3, touchant l'amélioration de la bouche et du bras de Saint-Georges, la Sublime Porte consent à ce que ladite Commission puisse disposer, aussitôt que besoin sera, des terrains et emplacements appartenant au domaine de l'État qui auront été désignés et déterminés d'avance comme nécessaires, tant pour la construction des ouvrages que pour la formation des établissements qui devront être créés en conséquence ou comme complément de cette amélioration.

Art. 6. Il est entendu qu'il ne sera construit sur l'une ou sur l'autre rive du fleuve, dans les ports de Soulina et de Saint-Georges, soit par l'autorité territoriale, soit par les compagnies ou sociétés de commerce et de navigation, soit par les particuliers, aucuns débarcadères, quais ou autres établissements de même nature dont les plans n'auraient pas été communiqués à la Commission européenne et reconnus conformes au projet général des quais, et comme ne pouvant compromettre en rien l'effet des travaux d'amélioration.

TITRE II.

Dispositions relatives au régime administratif de la navigation.

§. 1.

Des règlements en général.

Art. 7. La navigation aux embouchures du Danube est régie par le *Règlement de navigation et de police*, arrêté par la Commission européenne sous la date de ce jour, et qui est demeuré joint, sous la lettre A, au présent Acte, pour avoir même force et valeur que s'il en faisait partie intégrante. ¶ Il est entendu que ce Règlement fait loi non-seulement en ce qui concerne la police fluviale, mais encore pour le jugement des contestations civiles naissant par suite de l'exercice de la navigation.

Art. 8. L'exercice de la navigation sur le bas Danube est placé sous l'autorité et la surveillance de l'inspecteur général du bas Danube et du capitaine du port de Soulina. ¶ Ces deux agents, nommés par la Sublime Porte, devront conformer tous leurs actes au Règlement dont l'application leur est confiée et pour la stricte observation duquel ils prêteront serment. Les sentences émanant de leur autorité seront prononcées au nom de S. M. le Sultan. ¶ Dans le cas où la Commission européenne, ou la Commission riveraine permanente, aura constaté un délit ou une contravention commis par l'un ou l'autre desdits agents contre le Règlement de navigation et de police, elle requerra auprès de la Sublime Porte sa destitution. Si la Sublime Porte croit devoir procéder à une nouvelle enquête sur les faits déjà constatés par la Commission, celle-ci aura le droit d'y assister par l'organe d'un délégué, et lorsque la culpabilité de l'accusé aura été dûment prouvée, la Sublime Porte avisera sans retard à son remplacement. ¶ Sauf le cas prévu par le paragraphe qui précède, l'inspecteur général et le capitaine du port de Soulina ne pourront être éloignés de leurs postes respectifs que sur leur demande ou par suite d'un accord entre la Sublime Porte et la Commission européenne. ¶ Ces agents fonctionneront ainsi, l'un et l'autre, sous la surveillance de la Commission européenne. ¶ L'inspecteur général, les capitaines des ports de Soulina et de Toultcha et les surveillants (dépendant de l'inspecteur général) seront rétribués par le Gouvernement ottoman. ¶ Ils seront choisis parmi des personnes compétentes.

Art. 9. En vertu des principes de l'acte du Congrès de Vienne consacrés par l'article 15 du Traité de Paris, l'autorité de l'inspecteur général et du capitaine du port de Soulina s'exerce indistinctement à l'égard de tous les pavillons. ¶ L'inspecteur général est préposé spécialement à la police du fleuve en aval d'Isaktcha, à l'exclusion du port de Soulina; il est assisté de surveillants répartis sur les diverses sections fluviales de son ressort. ¶ Le capitaine du port de Soulina est chargé de la police du port et de la rade extérieure de Soulina. ¶ Une instruction spéciale, arrêtée d'un commun accord, règle dans ses détails l'action de l'inspecteur général et celle du capitaine du port de Soulina.

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Art. 10. Les capitaines marchands, à quelque nationalité qu'ils appartiennent, sont tenus d'obtempérer aux ordres qui leur sont donnés, en vertu du Règlement de navigation et de police, par l'inspecteur général et par le capitaine du port de Soulina.

Art. 11. L'exécution du Règlement de navigation et de police est assurée en outre, ainsi que l'application du tarif dont il sera parlé aux articles 13 et suivants du présent Acte, par l'action des bâtiments de guerre stationnés aux embouchures du Danube, conformément à l'article 19 du Traité de Paris. ¶ Chaque station navale agit sur les bâtiments de sa nationalité et sur ceux dont elle se trouve appelée à protéger le pavillon, soit en vertu des traités ou des usages, soit par suite d'une délégation générale ou spéciale. ¶ A défaut d'un bâtiment de guerre ayant qualité pour intervenir, les autorités internationales du fleuve peuvent recourir aux bâtiments de guerre de la Puissance territoriale.

Art. 12. Il est entendu que le Règlement de navigation et de police joint au présent Acte conservera force de loi jusqu'au moment où les règlements prévus par l'article 17 du Traité de Paris auront été arrêtés d'un commun accord et mis en vigueur. ¶ Il en sera de même pour les dispositions des articles 8, 9, et 10 ci-dessus, en tant qu'elles concernent les attributions de l'inspecteur général.

§. 2.

Du tarif des droits de navigation.

Art. 13. L'article 16 du Traité de Paris ayant conféré à la Commission européenne la faculté d'imposer à la navigation une taxe d'un taux convenable pour couvrir les frais des travaux et établissements susmentionnés, et la Commission ayant fait usage de cette faculté en arrêtant le tarif du 25 juillet 1860, revisé le 7 mars 1863, dont le produit lui a procuré les ressources nécessaires pour l'achèvement des travaux de Soulina, il est expressément convenu par le présent Acte que le susdit tarif, dont les dispositions viennent d'être complétées, demeurera obligatoire pour l'avenir. ¶ A cet effet, le tarif en question a été joint au présent Acte, sous la lettre *B*, pour avoir même force et valeur que s'il en faisait partie intégrante.

Art. 14. Le produit de la taxe sera affecté:

1°. Par priorité et préférence, au remboursement des emprunts contractés par la Commission européenne et de ceux qu'elle pourra contracter à l'avenir pour l'achèvement des travaux d'amélioration des embouchures du Danube;

2°. A couvrir les frais d'administration et d'entretien des travaux et établissements;

3°. A l'amortissement des avances faites à la Commission par la Sublime Porte; cet amortissement s'opérera conformément à l'arrangement spécial conclu, à cet égard, entre la Commission européenne et le délégué de S. M. I. le Sultan, sous la date de ce jour.

L'excédant de ce produit, s'il y en a, sera tenu en réserve, pour faire face aux dépenses que pourra entraîner le prolongement des digues de Soulina ou l'exécution de tels autres travaux que la Commission européenne, ou l'autorite

qui lui succédera, jugera ultérieurement utiles. ¶ Il est expressément entendu, au surplus, qu'aucune partie des sommes produites par les taxes prélevées sur les bâtiments de mer, ou des emprunts réalisés au moyen de l'affectation de ces taxes, ne pourra être employée à couvrir les frais de travaux ou des dépenses administratives se rapportant à une section fluviale située en amont d'Isaktcha.

Art. 15. A l'expiration de chaque délai de cinq ans, et en vue de diminuer, s'il est possible, les charges imposées à la navigation, il sera procédé par les délégués des Puissances qui ont arrêté le susdit tarif à une révision de ses dispositions, et le montant des taxes sera réduit autant que faire se pourra, tout en conservant le revenu moyen jugé nécessaire.

Art. 16. Le mode de perception de la taxe et l'administration de la caisse de navigation de Soulina continueront à être régis par les dispositions actuellement en vigueur. ¶ L'agent comptable préposé à la perception sera nommé, à la majorité absolue des voix, par la Commission européenne, ou par l'autorité qui lui succédera, et fonctionnera sous ses ordres directs. ¶ Le contrôle général des opérations de la caisse sera exercé par un agent dont la nomination appartiendra au Gouvernement ottoman. ¶ Il sera publié annuellement, dans les journaux officiels des différentes Puissances intéressées, un bilan détaillé des opérations de la caisse de navigation, ainsi qu'un état faisant connaître la répartition et l'emploi des produits du tarif.

Art. 17. L'Administration générale des phares de l'Empire ottoman s'étant chargée de pourvoir aux frais d'éclairage, d'administration et d'entretien des phares composant le système d'éclairage des embouchures du Danube, la quotepart représentant les droits de phare dans le montant des taxes perçues à Soulina sera versée aux mains de ladite Administration; mais il est entendu que ces droits ne pourront avoir pour objet, en ce qui concerne les phares existants et ceux que l'on jugerait utile d'établir ultérieurement, que de couvrir les dépenses réelles.

§. 3.

Des Quarantaines.

Art. 18. Les dispositions sanitaires applicables aux embouchures du Danube continueront à être réglées par le Conseil supérieur de santé institué à Constantinople, et dans lequel les différentes Missions étrangères accréditées auprès de la Sublime Porte sont représentées par les Délégués. ¶ Ces dispositions seront conçues de manière à concilier dans une juste mesure les garanties sanitaires et les besoins du commerce maritime, et elles seront basées, autant que faire se pourra, sur des principes déterminés dans les articles 19 et 20 ci-après.

Art. 19. Les bâtiments descendant le Danube seront affranchis de tout contrôle sanitaire; il en sera de même pour les bâtiments venant de la mer, aussi longtemps qu'aucune épidémie de peste ne régnera en Orient; ces bâtiments seront tenus simplement de présenter leur patente de santé aux autorités des ports où ils mouilleront.

Art. 20. Si une épidémie de peste vient à éclater en Orient, et si l'on juge nécessaire de faire appliquer des mesures sanitaires sur le bas Danube, la

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quarantaine de Soulina pourra être rétablie; les bâtiments venant de la mer seront tenus, dans ce cas, d'accomplir à Soulina les formalités quarantainaires; et, si l'épidémie n'a pas envahi les provinces de la Turquie d'Europe, ils ne pourront plus être l'objet d'aucune mesure sanitaire en remontant le fleuve. ¶ Mais si, au contraire, l'épidémie envahit une ou plusieurs des provinces riveraines du Danube, des établissements quarantainaires seront institués là où besoin sera, sur la partie du fleuve qui traverse le territoire de la Turquie.

TITRE III.

Neutralité.

Art. 21. Les ouvrages et établissements de toute nature créés par la Commission européenne, ou par l'autorité qui lui succédera, en exécution de l'article 16 du Traité de Paris, notamment la caisse de navigation de Soulina, et ceux qu'elle pourra créer à l'avenir, jouiront de la neutralité stipulée dans l'article 11 dudit Traité, et seront, en cas de guerre, également respectés par tous les belligérants. ¶ Le bénéfice de cette neutralité s'étendra, avec les obligations qui en dérivent, à l'inspection générale de la navigation, à l'administration du port de Soulina, au personnel de la caisse de navigation et de l'hôpital de la marine, enfin au personnel technique chargé de la surveillance des travaux.

Art. 22. Le présent Acte sera ratifié; chacune des Hautes Parties contractantes ratifiera en un seul exemplaire, et les ratifications seront déposées dans un délai de deux mois, ou plus tôt si faire se peut, à la Chancellerie du Divan impérial à Constantinople. ¶ En foi de quoi, les Plénipotentiaires respectifs l'ont signé et y ont apposé le sceau de leurs armes.

A. de Kremer. Ed. Engelhardt. J. Stokes. Strambio.
Saint-Pierre. Offenberg. Ahmet Rassim.

No. 2097.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten in Berlin, Wien, St. Petersburg und Florenz. — Die Ausführung des Art. 22 der in Galatz abgeschlossenen Donauschifffahrt-Convention vom 2. Nov. betr. —

Paris, le 13 décembre 1865.

No. 2097. Frankreich, 13. Dec. 1865.

Monsieur, la Commission européenne du Danube a signé, le 2 novembre, l'Acte public relatif à la navigation des embouchures de ce fleuve, et l'article 22 stipule que cette Convention sera ratifiée dans un délai de deux mois par les Puissances. Nous nous sommes demandé quelle était la marche à suivre pour l'exécution de cette clause, et il nous a paru conforme à l'esprit des actes du Congrès de Paris de convoquer la Conférence pour lui donner communication du travail élaboré par les Commissaires. En effet leur tâche a été définie par le Traité de 1856, et il appartient aux Puissances réunies en Conférence d'examiner si l'acte signé à Galatz répond à l'objet que le Congrès s'est proposé. Les Pléni-

potentiaires seraient ainsi appelés à constater leur assentiment collectif, et cette adhésion serait considérée comme l'équivalent de la ratification de chacune des Cours contractantes. ¶ D'après l'article 22 du nouvel Acte, ce document devra être déposé dans la Chancellerie du Divan impérial à Constantinople. La présentation de l'Acte lui-même aux Plénipotentiaires assemblés à Paris implique qu'il demeure aux archives de la Conférence; mais un exemplaire authentique du Protocole signé par les Plénipotentiaires et de la Convention qui y serait annexée serait délivré par la Conférence pour être remis aux mains du Gouvernement ottoman, et cette combinaison concilierait la marche que nous proposons de suivre avec les prescriptions de l'article 22. ¶ Le Cabinet de Londres partage sur ces différents points notre manière de voir, et il a déjà adressé des instructions dans ce sens à ses Agents auprès des Cours signataires du Traité de 1856. Je vous prie de faire connaître notre opinion à M. le Ministre des affaires étrangères, et si, comme je l'espère, il y donne son approbation, il jugera sans doute opportun d'envoyer le plus tôt possible, au Représentant à Paris de la Cour auprès de laquelle vous êtes accrédité, les pouvoirs nécessaires pour prendre part à la Conférence que je m'empresserai de convoquer. ¶ Agréez, etc.

No. 2097. Frankreich, 13. Dec. 1865.

Drouyn de Lhuys.

AFFAIRES DU LIBAN.

No. 2098.

FRANKREICH. — Min. d. Ausw. an den Kais. General-Consul in Beyrut. — Die Rückkehr von Josef Karam in den Libanon betr. —

Paris, le 8 décembre 1864.

Monsieur, la rentrée inattendue de Joseph Karam dans le Liban est un événement fâcheux. Il est nécessaire d'aviser aux moyens de prévenir les conséquences que sa présence pourrait avoir pour la tranquillité du nord de la Montagne; je pense que ces moyens doivent être cherchés tout d'abord et, autant que possible, dans des tentatives de rapprochement, en faisant appel, d'un côté, à la modération et à la sagesse du Gouverneur général, de l'autre, à l'esprit de soumission à l'ordre établi que Karam a manifesté dans sa correspondance avec vous. ¶ J'ai l'espoir, en me référant au langage plein de mesure tenu par Daoud-Pacha dans sa lettre à Cabouli-Pacha, que le Gouverneur de la Montagne consentirait à ce que Karam vécût tranquillement au milieu des siens, à la condition formelle, bien entendu, de se soumettre sans arrière-pensée et sans restriction au Gouvernement établi. ¶ Dès l'instant où Karam cesserait de donner l'exemple du respect de l'autorité, soit en cherchant à devenir un chef de parti, soit en permettant que son nom devînt un drapeau d'opposition contre Daoud-Pacha, dès cet instant, et il faudrait qu'il en fût d'avance bien averti, il perdrait toute espèce de titre à notre intérêt; il autoriserait l'emploi de tous les moyens qui deviendraient nécessaires pour l'éloigner de nouveau de son pays. ¶ Pour le moment, Monsieur, et surtout en présence des manifestations qui ont accueilli la présence de Karam,

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la prudence, l'intérêt de l'ordre public dans la Montagne, conseillent d'éviter de recourir à des mesures violentes à l'égard de l'ancien cheik d'Eiden, et j'apprendrais avec satisfaction que notre intervention aurait réussi à conjurer, par des voies amiables, les dangereuses complications que son retour pourrait faire naître. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2099.

FRANKREICH. — Min. d. Ausw. an den Kais. General-Consul in Beyrut. — Billigung der Haltung Daoud-Pascha's gegenüber Josef Karam. —

Paris, le 27 décembre 1864.

No. 2099. Frankreich, 27. Dec. 1864.

Monsieur, je vois avec plaisir que Daoud-Pacha a l'intention de n'employer que des moyens amiables pour arriver à une solution de la crise suscitée par le retour de Joseph Karam. Je n'ai pas besoin de vous recommander de ne rien négliger pour maintenir Daoud-Pacha dans ces excellentes dispositions. ¶ Je me plais à attendre un bon résultat des démarches que vous avez faites auprès du Patriarche, qui peut exercer une si grande influence dans les circonstances actuelles; ne lui laissez pas ignorer que nous lui saurons gré des efforts qu'il aura faits pour prévenir dans le Liban des complications qui ne pourraient, d'ailleurs, que tourner au préjudice de sa nation. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2100.

FRANKREICH. — Min. d. Ausw. an die Kais. Vertreter in London, Wien, St. Petersburg und Berlin. — Den eventuellen Rücktritt Daoud-Pascha's als Gouverneur vom Libanon betr. —

Paris, le 3 mars 1865.

No. 2100. Frankreich, 3. März 1865.

Monsieur, le Gouvernement auprès duquel vous êtes accrédité aura été instruit par son représentant à Constantinople de la résolution prise par Daoud-Pacha de donner sa démission. La Porte s'en est vivement émue, et, d'après ce que me mandait M. le marquis de Moustier, dans son courrier du 15 février, les Ministres du Sultan étaient disposés à faire tous leurs efforts pour décider Daoud à revenir sur sa détermination. Nous voulons encore espérer que leurs démarches auront un résultat favorable, et que le gouverneur de la Montagne reconnaîtra qu'il s'est exagéré les difficultés de la situation. La tranquillité relative que son administration avait fait régner dans le Liban, depuis plus de trois années, justifie l'intérêt que la Porte attache au maintien de ce fonctionnaire, et, au moment où le Gouvernement turc, de concert avec les Puissances, vient de lui donner une nouvelle preuve de bon vouloir, Daoud ne peut douter de l'appui qu'il trouverait, au besoin, auprès de tous les Cabinets, pour faciliter l'accomplissement de la tâche qui lui est confiée. ¶ Nous devons prévoir cependant le cas où sa résolu-

tion deviendrait irrévocable et où il serait nécessaire de lui choisir un successeur. Dans cette éventualité, les Puissances n'auraient qu'à se référer au règlement organique du 9 juin 1861 *), modifié et complété par l'acte du 6 septembre 1864 **). Les clauses de cet arrangement présentent au point de vue international, une force obligatoire et une autorité qui sont incontestables. C'est le terrain commun des différentes Cours dans tout ce qui regarde le Liban et la base naturellement indiquée de l'entente des Cabinets. Notre règle de conduite est donc parfaitement définie, et nous sommes convaincus à l'avance que les autres Gouvernements envisagent l'état des choses de la même manière que nous. Je vous invite à vous exprimer en ce sens dans vos entretiens avec M. le Ministre des Affaires étrangères, et j'attacherais du prix à connaître quelles sont, au sujet de la situation actuelle, ses impressions et ses idées. ¶ Agréez, etc.

No. 2100. Frankreich, 3. März 1865.

Drouyn de Lhuys.

No. 2101.

FRANKREICH. — Min. d. Ausw. an den Kais. General-Consul in Beyrut. — Befriedigung über die Unterwerfung von Josef Karam. —

Paris, le 8 avril 1865.

Monsieur, j'ai reçu votre dépêche télégraphique en date du 1er de ce mois m'annonçant que, par suite d'un accord intervenu entre Daoud-Pacha et le Patriarche, Joseph Karam a fait sa soumission, et que le pays est tranquille. Nous n'avons qu'à nous féliciter de ce résultat et à désirer qu'il se consolide. L'attitude du consulat général et la conduite qu'il a suivie y ont beaucoup contribué. Je compte sur votre vigilance pour maintenir au besoin les chefs du clergé maronite dans des dispositions conformes aux véritables intérêts de la Montagne. Vous voudrez bien dès à présent les y encourager en leur exprimant, quand vous en aurez l'occasion, l'approbation du Gouvernement de l'Empereur pour la prudence et le bon esprit dont ils viennent de donner des preuves. ¶ Recevez, etc.

No. 2101. Frankreich, 8. April 1865.

Drouyn de Lhuys.

No. 2102.

FRANKREICH. — General-Consul in Beyrut an den Kais. Min. d. Ausw. — Ruhiger Zustand im Libanon. —

Beyrouth, le 11 avril 1865.

Monsieur le Ministre, ainsi que j'ai eu l'honneur de le faire savoir à Votre Excellence par le télégraphe, les deux questions principales qui agitaient la Montagne ont été fort heureusement réglées. ¶ Joseph Karam a fait sa soumission, et les populations du Kesrouan qui se refusaient au payement de l'impôt, reconnaissant en principe la justice des prétentions du Gouverneur général du Liban, ne lui demandent plus que du temps pour payer et les dettes du passé et

No. 2102. Frankreich, 11. April 1865.

*) No. 40 und 41.

**) No. 1813.

No. 2102. Frankreich, 11. April 1865.

celles du présent. Ce n'est donc en réalité qu'une affaire d'administration intérieure dont le règlement rentre dans les attributions du Medjlis administratif central. ¶ Veuillez agréer, etc.

Bernard des Essards.

No. 2103.

FRANKREICH. — Min. d. Ausw. an die Kais. Botschafter in St. Petersburg, London, Wien und Berlin. — Das erneuerte Demissionsgesuch Daoud Pascha's und die Beilegung der desfallsigen Differenzen betr. —

Paris, le 28 septembre 1865.

No 2103. Frankreich, 28. Sept. 1865.

Monsieur, vous connaissez les difficultés qui avaient amené, il y a environ six mois, le gouverneur général du Liban à offrir sa démission au Sultan, et vous savez que le Gouvernement de l'Empereur avait heureusement employé ses bons offices pour faire revenir Daoud-Pacha sur cette résolution. Depuis lors, le gouverneur de la Montagne s'est ému de nouveaux incidents, et il a craint que l'amnistie accordée par la Porte aux Druses qui s'étaient signalés dans les massacres de Syrie ne devînt un danger pour l'ordre public. Ayant obtenu un congé, il s'est rendu à Constantinople, et y a manifesté de nouveau le désir de se démettre de ses fonctions. Notre Ambassade a vivement combattu cette disposition au découragement. Nous pensions, au reste, qu'il était de l'intérêt du Gouvernement ottoman de fournir à Daoud-Pacha les pouvoirs et les moyens nécessaires pour maintenir la tranquillité dans ce pays, si longtemps troublé. ¶ La Porte a compris, de son côté, qu'il y avait lieu de faire, en faveur de la Montagne, toutes les concessions qui seraient compatibles avec le règlement organique. Il a été décidé, en conséquence, que les Druses amnistiés ne pourront retourner dans le Liban qu'avec l'autorisation du gouverneur général, qui reste seul juge des conditions auxquelles leur rentrée pourra s'effectuer. La gendarmerie réglementaire, composée de 1,500 hommes, sera organisée. Les ressources du budget de la Montagne étant insuffisantes, la Porte s'engage à donner au gouverneur un subside annuel de 3 millions de piastres. Les routes de Damas et de Saïda seront occupées, non plus par des troupes d'infanterie turque, mais par deux escadrons de cosaques composés exclusivement de chrétiens, et par deux escadrons composés de musulmans. Les impôts arriérés qui datent de l'époque des Caïmakamies sont abandonnés par la Porte à l'administration de la Montagne, à la condition qu'ils seront employés à des travaux d'utilité publique. Ces arriérés pourront s'élever à 3 ou 4 millions de piastres, que les habitants payeront volontiers, du moment que ces sommes sont destinées à des travaux dont ils profiteront. Enfin il a été convenu qu'une partie de la plaine de la Bekaa, principalement habitée par des Libanais, serait distraite du gouvernement de Damas, pour être placée sous la juridiction du gouverneur général du Liban. Daoud-Pacha, pleinement satisfait de l'ensemble de ces améliorations, a consenti à retirer sa démission, et la Porte a bien voulu lui offrir, pour retourner en Syrie, un bâtiment de l'État. Le Gouvernement de l'Empereur a vu avec une satisfaction véritable cet heureux résultat, et il se plaît à espérer que les sages concessions de la Porte, en donnant

au gouverneur du Liban de nouveaux éléments de force morale, contribueront à consolider les institutions garanties à la Montagne par un acte européen. ¶ Agréez, etc. *Drouyn de Lhuys.*

No. 2103. Frankreich, 28. Sept. 1865.

No. 2104.

FRANKREICH. — General-Consul in Beyrut an den Kais. Min. d. Ausw. — Telegramm über eine revolutionäre Bewegung Josef Karam's. —

[Dépêche télégraphique.]

Beyrouth, le 7 janvier 1866.

Joseph Karam, à la tête d'un millier d'hommes, s'est mis en marche contre Daoud-Pacha qui est à Djouni. Ce cheik a attaqué Gazir, hier, à deux reprises, et a été repoussé. La révolte ne paraît pas s'étendre aux districts mixtes.

Bernard des Essards.

No. 2104. Frankreich, 7. Jan. 1866.

No. 2105.

FRANKREICH. — Min. d. Ausw. an den Kais. General-Consul in Beyrut. — Versicherung des moralischen Beistandes Frankreichs zur Unterdrückung des Aufstandes von Karam. —

Paris, le 9 janvier 1866.

Vous pouvez assurer à Daoud-Pacha que notre appui moral lui est acquis pour la répression de la révolte de Karam. *Drouyn de Lhuys.*

No. 2105. Frankreich, 9. Jan. 1866.

No. 2106.

FRANKREICH. — General-Consul in Beyrut an den Kais. Min. d. Ausw. — Telegramm über das Aufhören des Karam'schen Aufstandes. —

[Dépêche télégraphique.]

Beirouth, le 13 janvier 1866.

Les habitants du Kusrouan ont demandé l'amnistie par l'intermédiaire du clergé. Daoud-Pacha est disposé à l'accorder. Karam s'est réfugié près de Batroum, dans un couvent. *Bernard des Essards.*

No. 2106. Frankreich, 13. Jan. 1866.

No. 2107.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in Constantinopel. — Das Scheitern des Karam'schen Aufstandes betr. —

Paris, le 19 janvier 1866.

Monsieur le Marquis, je n'ai point encore reçu le rapport détaillé que le Consul général de Sa Majesté a dû m'envoyer au sujet du mouvement insurrectionnel dont Joseph Karam n'a pas craint d'assumer la responsabilité; mais

No. 2107. Frankreich, 19. Jan. 1866.

No. 2107. Frankreich, 19. Jan. 1866.

une dépêche télégraphique, en date du 13, m'a annoncé l'insuccès de cette entreprise. ¶ Je n'ai, d'ailleurs, qu'à approuver les directions que vous avez adressées à M. des Essards et qui sont conformes à celles que je lui ai fait parvenir par le télégraphe. ¶ Agréez, etc. *Drouyn de Lhuys.*

GRÈCE.

No. 2108.

FRANKREICH. — Ges. in Athen an den Kais. Min. d. Ausw. — Uebersendung der Abschrift einer identischen Note der Vertreter Russlands, Englands und Frankreichs an das Cabinet von Athen. —

Athènes, le 12 janvier 1865.

No. 2108. Frankreich, 12. Jan. 1865.

Monsieur le Ministre, j'ai l'honneur d'envoyer ci-joint à Votre Excellence copie de la note identique que les ministres de Russie, d'Angleterre et moi avons adressée au Cabinet d'Athènes, conformément aux instructions de nos trois Cours. ¶ Veuillez agréer, etc.

Comte *de Gobineau.*

No. 2109.

FRANKREICH. — Ges. in Athen an den Kön. Hellen. Min. d. Ausw. — Die Zugeständnisse der Schutzmächte zur Abhülfe der finanziellen Verlegenheiten Griechenlands. —

Athènes, le 9 janvier 1865.

No. 2109. Frankreich, 9. Jan. 1865.

Monsieur le Ministre, le prédécesseur de Votre Excellence, dans une communication en date du 12/24 janvier 1864, faisant un tableau fort sombre de la situation du Trésor hellénique, sollicitait le concours des puissances garantes de l'emprunt de 1832, pour l'aider à sortir de ses embarras financiers. ¶ Les facilités qu'il réclamait de leur bienveillance peuvent se résumer en trois points.

1° L'ajournement du payement des sommes que le Gouvernement Grec s'était engagé à solder comme à-compte dans les années 1861, 1862 et 1863, et qui sont encore en souffrance;

2° L'acquiescement à la prolongation pour cinq ans encore de l'arrangement de 1859, par lequel le Trésor hellénique s'était obligé à payer annuellement aux trois Cours 900,000 francs en remboursement partiel de leurs avances pour l'emprunt Rothschild;

3° La consécration devant découler de ce sursis, d'un droit nouveau pour le Gouvernement grec, de distraire une part de ses revenus pour satisfaire une autre créance (celle de l'emprunt de 1824 et 1825) avant d'avoir pourvu au service entier des intérêts et de l'amortissement de la dette de 1832, au payement desquels les recettes effectives du Trésor grec doivent être consacrées *avant tout.*

Je n'ai pas manqué de faire part de ces vœux à mon Gouvernement, et je viens de recevoir l'ordre de faire connaître à Votre Excellence les résolutions auxquelles le Cabinet de Paris est arrivé après un concert préalable avec la Russie et la Grande-Bretagne.

No. 2109. Frankreich, 9. Jan. 1865.

1° Le Gouvernement de l'Empereur, d'accord avec les Gouvernements de la Russie et de la Grande-Bretagne, consent à ajourner, pour le moment, le payement des sommes dues par le Gouvernement Grec sur l'emprunt pour les années 1861, 1862 et 1863, en réservant toutefois son droit de réclamer par la suite le remboursement de ces sommes;

2° Le Gouvernement de l'Empereur également d'accord avec les deux Cours garantes, prenant en considération les circonstances qui mettent le Gouvernement hors d'état de satisfaire actuellement à des déboursés plus considérables, consent à ne pas réclamer, pendant cinq ans, à partir du 1er décembre 1864, l'augmentation du versement annuel de 900,000 francs fixé en 1859, et qui, du reste, doit être diminué de la somme stipulée en faveur de S. M. le Roi des Hellènes, par l'article 6 du Traité conclu le 29 mars 1864 entre les trois Puissances et la Grèce.

En faisant cette concession, les trois Cours doivent insister pour obtenir du Gouvernement Hellénique la désignation d'une branche du revenu de la Grèce qui sera spécialement affecté au payement de l'annuité convenue. Les Représentants des trois Puissances s'entendront à ce sujet avec le Gouvernement Hellénique.

3° Quant à la troisième demande du Gouvernement Hellénique, les Puissances garantes, convaincues que le meilleur moyen, pour la Grèce, de relever son crédit en Europe, consiste dans une bonne administration et dans la réalisation de sages économies, ne croient pas devoir renoncer à la position privilégiée qui résulte pour elles de la Convention de 1832.

En conséquence, elles n'entendent sacrifier, dans aucun cas, leurs intérêts à ceux des créanciers des emprunts de 1824 et 1825. ¶ J'aime à espérer que, pour répondre à la bienveillance dont les trois Cabinets ont fait preuve en déférant aux désirs exprimés dans les deux premiers points, le Gouvernement de Sa Majesté Hellénique s'empressera d'offrir une branche de revenus suffisante comme gage de sa bonne volonté à remplir ses obligations, et qu'il s'entendra à ce sujet avec les Représentants des Puissances à Athènes. ¶ Agréez, etc. Comte *de Gobineau.*

No. 2110.

FRANKREICH. — Ges. in Athen an den Kais. Min. d. Ausw. — Uebersendung einer Abschrift der Antwort des Hellen. Cabinets auf die vorstehende Note nebst Erwiederung der Vertreter der Schutzmächte auf die Hellen. Note. —

Athènes, le 4 février 1865.

No. 2110. Frankreich, 4. Febr. 1865.

Monsieur le Ministre, j'ai l'honneur d'adresser à Votre Excellence la copie d'une dépêche par laquelle le Gouvernement Hellénique accepte les trois

No. 2110. Frankreich, 4. Febr. 1865.

articles de la communication des Cours protectrices, et offre la moitié des recettes de la douane de Syra comme gage. Vous trouverez également ci-annexée notre réponse identique. ¶ Veuillez agréer, etc.

Comte *de Gobineau.*

No. 2111.

GRIECHENLAND. — Min. d. Ausw. an den Kaiserl. Französ. Ges. in Athen. — Antwort auf die identische Note der Gesandten der drei Schutzmächte vom 9. Jan. 1865. (No. 2109.) —

Athènes, le 15/27 janvier 1865.

No. 2111. Griechenland, 15./27. Jan. 1865.

Monsieur le Comte, j'ai placé sous les yeux de S. M. le Roi et j'ai soumis à la considération du Conseil des Ministres la note identique que, de concert avec vos collègues de la Grande-Bretagne et de Russie, vous m'avez adressée, le 9 courant, pour me communiquer la décision des Puissances garantes de l'emprunt de 1832, en réponse aux propositions que mon prédécesseur leur avait présentées par son office en date du 12/24 janvier 1864. ¶ Il est, avant tout, de mon devoir, Monsieur le Comte, de vous exprimer la reconnaissance du Gouvernement du Roi pour la bienveillante manière avec laquelle le Cabinet de S. M. l'Empereur des Français a tenu compte de la situation critique dans laquelle le Trésor hellénique s'est trouvé après les secousses et les orages que le pays a subis depuis quelques années. ¶ Cette situation difficile ayant nécessité, de la part des trois Puissances, de nouvelles concessions relatives au service de l'emprunt garanti par elles, le Gouvernement du Roi n'a pu apprendre qu'avec la plus vive satisfaction, par la note à laquelle j'ai l'honneur de répondre, que ses vœux avaient été favorablement accueillis, et que l'ajournement du payement des sommes dues sur l'emprunt, pour les années 1861, 1862 et 1863, était, en principe accordé. ¶ C'est avec un plaisir non moins grand qu'il a appris, en outre, que les trois Puissances consentaient à l'exempter pendant cinq années, à partir du 1er décembre 1864, de toute augmentation du versement annuel de 900,000 francs fixé en 1859, et qui, du reste, sera diminué de la somme stipulée en faveur de S. M. le Roi des Hellènes par l'article 6 du traité conclu à Londres le 17/29 mars 1864, entre la Grèce et les trois Puissances. ¶ Cette dernière concession étant accompagnée de la condition par laquelle la première des Parties contractantes est tenue à fournir une garantie spécialement désignée pour l'acquittement des annuités à venir, le Gouvernement du Roi ne devait pas hésiter à offrir immédiatement cette garantie; aussi suis-je, dès aujourd'hui, à même de vous prévenir, Monsieur le Comte, qu'il est prêt à mettre à la disposition des trois Puissances garantes la *moitié* des recettes de la douane de Syra, dont la totalité des droits perçus s'élève, approximativement, à 1,500,000 drachmes par an. ¶ Dans le cas où cet arrangement serait agréé, la moitié de ces recettes pourrait être versée mensuellement à la Banque du Royaume, et cela jusqu'à concurrence de six cent mille (600,000) francs, somme représentant l'annuité due par la Grèce, après la réduction dont l'a affectée le Traité de Londres

susmentionné. ¶ J'aime à espérer, Monsieur le comte, que cette proposition sera regardée comme propre à satisfaire en tout point aux prétentions légitimes des trois Puissances, et que les efforts que le Gouvernement du Roi fait aujourd'hui pour faire honneur, autant qu'il en est en son pouvoir, à ses engagements, sont une preuve irrécusable de sa ferme résolution à relever le crédit du pays en améliorant ses finances, dont le sombre tableau exposé par mon prédécesseur n'est que la trop fidèle représentation. ¶ En effet, les anomalies inévitables d'un interrègne révolutionnaire, la réduction de moitié de l'impôt foncier, la continuation du même système foncier appliqué à la perception de cet impôt important, même après sa réduction, les retards indispensables apportés à l'application des nouvelles taxes (sur les pâturages et les maisons), qui devaient compenser les pertes provenant de la diminuation des impôts ci-dessus, la saison exceptionnellement pluvieuse qui a compromis en grande partie la récolte du coton et celle de l'huile (cette principale ressource du fisc dans les îles Ioniennes), et une foule d'autres causes dont il est inutile de faire ici l'énumération détaillée, ont, depuis, augmenté les difficultés financières du Royaume, d'ailleurs compliquées par des questions inhérentes à l'annexion des îles Ioniennes. ¶ Cependant, Monsieur le Comte, même après cet aveu sincère de ces embarras, je suis heureux de pouvoir encore vous donner l'assurance que le Gouvernement du Roi espère se mettre, peu à peu, en mesure de parer aux difficultés qui l'entourent et faire honneur à des engagements dont il est le premier à reconnaître et la validité et le caractère sacré. ¶ Le rétablissement graduel de l'ordre légal et, surtout, la pratique sincère des institutions que le pays s'est données ne peuvent qu'influer heureusement sur ses finances. Je me plais aussi à croire que, si l'on ajoutait à ces causes l'impulsion d'une administration fermement résolue à prendre l'impartialité pour règle de sa conduite, on pourrait peut-être entrevoir avec confiance un avenir peu éloigné, dans lequel la Grèce, prospère et fidèle à la lettre et à l'esprit de ses engagements, serait en voie de réaliser les vœux de ses amis et les vues bienveillantes des trois Puissances, dont les sympathies d'ailleurs ne lui ont jamais fait défaut. ¶ Agréez, etc.

No. 2111. Griechenland, 15./27. Jan. 1865.

Boudouris.

No. 2112.

FRANKREICH. — Ges. in Athen an den Kön. Hellen. Min. d. Ausw. — Erwiederung auf die vorstehende Note des Kön. Hellen. Min. d. Ausw. —

Athènes, le 3 février 1865.

No. 2112. Frankreich, 3. Febr. 1865.

Monsieur le Ministre, j'ai eu l'honneur de recevoir la note par laquelle Votre Excellence a bien voulu me faire part de l'empressement avec lequel le Gouvernement de Sa Majesté Hellénique venait au-devant des désirs des Puissances garantes de l'emprunt Rothschild. Il propose de mettre à la disposition des trois Cours la moitié des recettes de la douane de Syra, évaluées approximativement par Votre Excellence à un rapport annuel de 1,500,000 drachmes, comme garantie du payement régulier de 600,000 francs pendant cinq ans, à

No. 2112. Frankreich, 3. Febr. 1865.

titre d'à-compte sur les sommes avancées au Trésor grec. Cette offre a paru à mes collègues de Russie et de Grande-Bretagne, ainsi qu'à moi, parfaitement satisfaisante. Les Cabinets de Paris, de Saint-Pétersbourg et de Londres ayant chargé leurs Représentants de s'entendre avec le Gouvernement de Sa Majesté Hellénique quant à la branche de revenu à affecter au versement convenu, j'ai tout lieu de penser qu'ils n'hésiteront pas à approuver l'acceptation que, de concert avec MM. les Envoyés de Russie et de Grande-Bretagne, je crois pouvoir communiquer à Votre Excellence dès aujourd'hui, *sub spe rati.* ¶ Il est bien entendu, Monsieur le Ministre, comme vous avez bien voulu me le dire de vive voix, que, dans le cas où cette moitié ne suffirait pas à couvrir la somme de 600,000 fr., celle-ci serait complétée par l'autre fraction des recettes. Dans aucun cas non plus, le chiffre des revenus de la douane donnés en hypothèque ne pourra infirmer en quoi que ce soit l'arrangement quant au versement convenu pour cinq ans encore. ¶ Agréez, etc.

Comte *de Gobineau.*

No. 2113.

FRANKREICH. — Ges. in Athen an den Kais. Min. d. Ausw. — Mittheilung des Empfanges der für das Jahr 1864 fälligen Annuität von der Griech. Regierung. —

Athènes, le 16 mars 1865.

No. 2113. Frankreich, 16. März 1865.

Monsieur le Ministre, j'ai l'honneur de vous annoncer que le Gouvernement grec m'a fait remettre la somme de 200,000 francs représentant la part afférente au Gouvernement de l'Empereur dans le règlement de l'annuité de l'emprunt de 1832 pour l'année 1864. ¶ Veuillez agréer, etc.

Comte *de Gobineau.*

ÉTATS-UNIS.

No. 2114.

VEREINIGTE STAATEN von AMERIKA. — Ges. in Paris an den Kais. Französ. Min. d. Ausw. — Die Stellung Frankreichs zu den kriegführenden Parteien in Nordamerika betr. —

Paris, le 10 mai 1865.

No. 2114. Vereinigte Staaten, 10. Mai 1865.

Monsieur, je n'ai pas besoin de rappeler à Votre Excellence que, pendant le cours de la guerre civile qui, depuis quatre années environ a désolé ma patrie, la déclaration du Gouvernement impérial, en date de septembre 1861,*) reconnaissant aux insurgés les droits de belligérants, a été une source d'embarras sérieux et d'irritation populaire considérable. Sans vouloir discuter la nécessité ou la convenance de cette résolution, au sujet de laquelle, Votre Excellence le

*) No. 113.

No. 2114. Vereinigte Staaten, 10. Mai 1865.

sait, l'opinion de mon Gouvernement n'a jamais varié, je considère comme mon devoir de vous soumettre la question de savoir si cette déclaration n'a pas cessé de remplir tous les buts utiles qu'elle a pu avoir en vue; si le temps n'est pas venu où ce serait, de la part de la France, un procédé peu amical que de refuser à la marine fédérale l'hospitalité que la marine française a toujours trouvée dans les ports des États-Unis, et si les insurgés n'ont pas perdu tous leurs droits prétendus aux priviléges de belligérants que le Gouvernement impérial leur a accordés. ¶ Votre Excellence doit savoir déjà que l'insurrection, sur le territoire des États-Unis, ne possède plus un seul port ouvert sur la mer, qu'elle n'a plus de siége fixe pour son prétendu Gouvernement, plus d'administration civile établie, plus d'armée qui ne se dissolve rapidement sous le coup de défaites répétées. Les seuls bâtiments qui puissent porter son pavillon ont été construits dans des pays étrangers, et, depuis le jour où ils ont été lancés, ils ne se sont jamais aventurés à approcher du théâtre de l'insurrection à moins d'une distance de centaines de milles, tandis que la faculté qu'ils ont eue de piller notre commerce innocent dérivait uniquement de la concession des droits de belligérants faite par des puissances qui avaient donné à mon Gouvernement les assurances répétées de leur volonté d'être neutres dans la lutte. ¶ Afin de montrer à Votre Excellence combien il est difficile d'entretenir des relations amicales, quelque désirables qu'elles soient, avec des Puissances qui prêtent leur appui à un tel état de choses, j'appelle son attention sur un seul point de cette pénible question, point qui repose sur des constatations officielles. ¶ Parmi les bâtiments de commerce américains, construits et possédés aux États-Unis en 1858, 33 navires, représentant 12,684 tonneaux, ont été transférés sur les registres de la marine britannique. Le nombre des bâtiments de même espèce, transférés de même en 1859, a été de 49, comptant 21,308 tonneaux. En 1860, le nombre a été de 41, comptant 13,683 tonneaux. En 1861, ce nombre s'est élevé à 126 navires, comptant 71,673 tonneaux. En 1862, le chiffre des navires a atteint 135, avec 64,578 tonneaux. En 1863, il n'a pas été moindre de 348, avec 252,379 tonneaux. En 1864, il est tombé à 106 navires avec 92,052 tonneaux. ¶ Il résulte de ces chiffres que, depuis le commencement de notre guerre civile jusqu'au 1er janvier dernier, le nombre de nos bâtiments marchands qui se sont fait enregistrer dans la marine britannique a été d'environ 715. J'ignore combien de nos bâtiments marchands ont cherché à se mettre en sûreté en se faisant inscrire dans d'autres marines que celle de la Grande-Bretagne, et je n'ai pas besoin de former des conjectures à ce sujet. Les chiffres que j'ai cités suffisent pour faire voir quel trouble et quel dérangement considérable pour notre commerce est la conséquence nécessaire et légale, non de notre guerre civile, mais de l'intervention de croiseurs pirates, construits dans des ports anglais et en sortant pour piller notre commerce sur la haute mer, au mépris des lois du pays où ils ont été construits, des traités et du droit des gens. ¶ Le Gouvernement français s'est joint à la Grande-Bretagne pour attribuer le caractère de belligérants à ces bâtiments pirates; de là en grande partie la faculté qu'ils ont eue de faire du mal; et en agissant ainsi, ce Gouvernement a prêté son appui à un mode de guerre qui est sans exemple dans les temps modernes par les de-

No. 2114. Vereinigte Staaten, 10. Mai 1865.

structions sauvages auxquelles il a donné lieu, et qui est effrayant quand on le considère comme un précédent établi pour l'avenir et consacré par de si hautes autorités. ¶ Je viens demander maintenant à Votre Excellence si la France désire persister à reconnaître comme belligérants les débris dispersés de l'organisation insurrectionnelle, qui fuient devant nos armées; veut-elle admettre que les deux ou trois bâtiments qui détruisent actuellement notre commerce, qui ont été contruits et équipés en territoire neutre, qui ne naviguent sous aucun pavillon national, et qui, par conséquent, sont des pirates aux termes du droit des gens, jouissent, dans les ports de cet Empire, des mêmes droits et de la même hospitalité que les bâtiments de guerre portant le pavillon des États-Unis? Je demanderai à Votre Excellence si de ce soutien donné à nos ennemis peut résulter un avantage quelconque de nature à compenser l'irritation qui sera la suite inévitable de la continuation d'une politique si préjudiciable à notre intérêt national, et si peu faite pour entretenir ces relations amicales que mes compatriotes ont été habitués à apprécier hautement. ¶ S'il en est autrement, je prie Votre Excellence de me permettre de l'assurer que, dans ma conviction, il n'est pas probable qu'il se présente un moment plus opportun pour la France de retirer toute reconnaissance qu'elle a pu faire, en quelques termes et à quelques conditions que ce soit, de tout Gouvernement ou autorité quelconque sur le territoire des États-Unis autre que le Gouvernement que j'ai l'honneur de représenter près l'Empereur. Permettez-moi aussi d'exprimer l'espoir que Votre Excellence prêtera son puissant appui à cette politique, dont les conséquences ne peuvent être indifférentes à aucun de nos deux pays. ¶ Je profite de cette occasion, etc.

John Bigelow.

No. 2115.

FRANKREICH. — Min. d. Ausw. an den Ges. der Verein. St. in Paris. — Antwort auf die vorstehende Note. —

Paris, le 20 mai 1865.

No. 2115. Frankreich, 20. Mai 1865.

Monsieur, j'ai reçu la Note que vous m'avez fait l'honneur de m'adresser le 10 de ce mois. Rappelant les événements décisifs qui se sont passés aux États-Unis, et qui ont consommé la défaite des États confédérés du Sud, vous demandez si la déclaration de neutralité du 10 juin 1861 *) n'a pas cessé d'atteindre le but utile qu'elle pouvait avoir en vue, aujourd'hui que le Gouvernement insurrectionnel n'a plus de siége et d'existence fixes, que ses armées sont dissoutes, qu'il ne possède plus un seul port ouvert sur la mer, et que son pavillon ne flotte plus que sur quelques bâtiments construits dans des ports étrangers, et errants, sans refuge possible dans les ports de leur pays. Vous demandez en même temps si le moment n'est pas venu où ce serait, de la part de la France, un procédé peu amical que de refuser à la Marine des États-Unis l'hospitalité

*) No. 58.

que la Marine française a toujours trouvée dans les ports de l'Union, et si les insurgés n'ont pas perdu tout droit aux priviléges de belligérants que le Gouvernement impérial leur a reconnus. ¶ Avant tout, Monsieur, je tiens pour entendu que la conduite suivie par le Gouvernement de l'Empereur depuis l'origine du conflit ne saurait être considérée comme lui ayant été inspirée par aucun sentiment peu amical pour les États-Unis. Bien que vous annonciez, dans la communication à laquelle j'ai l'honneur de répondre, ne pas vouloir discuter la nécessité ou la convenance de notre déclaration de 1861, je n'en crois pas moins devoir affirmer de nouveau que le Gouvernement de l'Empereur ne pouvait pas agir autrement qu'il ne l'a fait, que c'était à la fois son droit et son devoir de reconnaître aux forces imposantes et régulièrement organisées qui entraient en lutte dans le sein de l'Union américaine, tous les caractères qui constituent les belligérants, et de proclamer, dès lors, sa neutralité. Il ne pouvait y avoir, sur la conduite à tenir, ni hésitation ni controverse; les faits s'imposaient à tous avec leur autorité souveraine; et le Gouvernement des États-Unis lui-même, je le rappelle à son honneur, ne l'a pas méconnu, car il a observé vis-à-vis de ses adversaires, dans la pratique de la guerre, les usages qui président aux hostilités entre nations indépendantes. Mais, dans notre pensée, des mesures prises par nous, en conséquence d'un état de guerre manifeste et déclaré, ne devront pas être maintenues quand la situation qui les a rendues obligatoires aura cessé d'exister. Or tout indique que le moment est proche où le Gouvernement fédéral pourra se départir de l'attitude que les nécessités de la guerre lui imposent encore. Dès que nous serons informés qu'il renonce à exercer contre les bâtiments neutres le droit de visite et de capture, il n'y aura plus pour nous de belligérants et nous nous empresserons de le reconnaître. Nous serons heureux de pouvoir supprimer immédiatement toutes les restrictions que l'état de guerre a apportées dans nos relations, et d'offrir, notamment dans nos ports, la plus cordiale et la plus complète hospitalité aux navires d'une nation que nous sommes, de vieille date, habitués à traiter en amie. ¶ Je me félicite de pouvoir vous annoncer dès aujourd'hui, que, dans l'état actuel des choses, le Gouvernement de Sa Majesté ne considère déjà plus comme nécessaire la disposition qui limitait à vingt-quatre heures la durée du séjour que les navires des États-Unis étaient autorisés à faire dans nos ports. En conséquence, M. le Ministre de la marine vient d'en prononcer la révocation. ¶ Agréez, etc. *Drouyn de Lhuys.*

No. 2115. Frankreich, 20. Mai 1865.

No. 2116.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten im Auslande. — Das bisherige Verhalten Frankreichs gegenüber dem Kriege in Nordamerika betr. und Anzeige von der Aufhebung der Verfügung, wonach Unions-Schiffe nur 24 Stunden in Französ. Häfen verweilen durften. —

Paris, le 27 mai 1865.

A la suite de la capitulation des armées du Sud et de la désorganisation du Gouvernement confédéré, M. le Ministre des États-Unis nous a demandé si ces événements ne modifieraient pas les règles que nous avions observées pen-

No. 2116. Frankreich, 27. Mai 1865.

No. 2116. Frankreich, 27. Mai 1865.

dant la guerre à l'égard des navires de la Marine fédérale. La conduite suivie par le Gouvernement de l'Empereur depuis l'origine du conflit ne saurait être considérée comme lui ayant été inspirée par un sentiment peu amical pour les États-Unis. Du moment que le Gouvernement fédéral lui-même observait vis-à-vis de ses adversaires les usages qui président aux hostilités entre nations indépendantes, et leur reconnaissait ainsi implicitement la qualité de belligérants, il nous était impossible de leur dénier ce caractère, et la nature des choses, aussi bien que les règles du droit des gens, nous imposaient comme un devoir la déclaration de 1861 et les mesures qui en étaient la conséquence. Mais, dans notre pensée, ces mesures ne devaient pas être maintenues quand la situation qui les a rendues obligatoires aurait cessé d'exister, et tout indique que ce moment approche. Le Gouvernement de Washington n'a pas cru pouvoir, jusqu'à présent, se départir de l'attitude que les nécessités de la guerre lui imposent encore, et nous n'attendons que le jour où il aura renoncé à exercer contre les bâtiments neutres le droit de visite et de capture pour supprimer immédiatement toutes les restrictions que l'état de guerre avait apportées dans nos relations avec la Marine fédérale, et offrir, notamment dans les ports de l'Empire, la plus cordiale hospitalité aux navires d'une nation que nous sommes, de vieille date, habitués à traiter en amie. Dès à présent, le Gouvernement de l'Empereur, voulant donner une preuve de son bon vouloir au Cabinet de Washington, a révoqué la disposition qui limitait à vingt-quatre heures la durée du séjour que les navires fédéraux étaient autorisés à faire dans nos ports, et je me suis empressé de notifier cette décision à M. le Ministre des États-Unis. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2117.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in Paris an den Kais. Französ. Min. d. Ausw. — Erwiederung auf die Französische Antworts-Note vom 20. Mai. (No. 2115.) —

Paris, le 29 mai 1865.

No. 2117. Vereinigte Staaten, 29. Mai 1865.

Monsieur, j'ai reçu la note en date du 20 de ce mois, que Votre Excellence m'a fait l'honneur de m'adresser en réponse à la mienne du 10, relative à la déclaration impériale de neutralité du 10 juin 1861. ¶ Après avoir exprimé votre confiance dans la justice et l'opportunité de cette déclaration, vu les circonstances où elle s'est produite, Votre Excellence ajoute que, suivant son opinion, les mesures prises en vue d'un état de guerre manifeste et déclaré ne doivent pas être maintenues lorsque la situation en vue de laquelle elles avaient été prises a cessé d'exister; que tout indiquait l'approche du moment où le Gouvernement fédéral abandonnerait l'attitude que les nécessités de la guerre l'avaient forcé de prendre; et que, aussitôt que vous auriez appris que le Gouvernement fédéral avait renoncé à l'exercice du droit de visite et de prise, il ne serait plus question de belligérance avec les États-Unis; que vous vous empresseriez alors de reconnaître le fait accompli, et que vous seriez heureux de

No. 2117. Vereinigte Staaten, 29. Mai 1865.

lever sans retard toutes les restrictions que l'état de guerre avait imposées à vos relations avec les États-Unis, et d'offrir à nos vaisseaux la plus complète hospitalité dans vos ports. Vous avez bien voulu ajouter encore que, dans l'état actuel des affaires, le Gouvernement de Sa Majesté impériale ne considérait plus comme nécessaire la disposition limitant à vingt-quatre heures le séjour, dans les ports français, des navires de l'Union, et que le ministre de la marine impériale avait déjà donné des ordres à cet effet. ¶ En ce qui concerne la partie de la note de Votre Excellence relative à l'opportunité et à la justice de la déclaration impériale de neutralité du 10 juin 1861, je dois répéter ce que j'ai eu l'honneur d'exposer dans ma note du 10 de ce mois, savoir: que je n'ai pas actuellement le projet d'en faire un sujet de discussion. Cependant il importe, afin d'écarter la possibilité de tout malentendu futur, d'appeler votre attention sur une phrase qui se trouve dans votre note du 20 de ce mois, et qui pourrait faire naître une impression que, selon moi, l'histoire de la récente insurrection ne saurait justifier. Votre Excellence parle de mesures prises par le Gouvernement de Sa Majesté impériale „par suite d'un état de guerre manifeste et déclaré.“ Sans prétendre savoir la signification exacte que vous attachez au mot „déclaré“ dans ce document, je crois qu'il est de mon devoir de dire qu'en science politique et militaire ce mot a une signification technique qui n'est pas historiquement la sienne, dans la phrase que j'ai citée ci-dessus. J'ignore la publication, par le Gouvernement des États-Unis, d'une déclaration de guerre quelconque à laquelle on pourrait équitablement appliquer la remarque de Votre Excellence. ¶ Je regrette que le rappel de la Déclaration de neutralité du 10 juin 1861 n'ait été offert qu'à des conditions dont je ne puis reconnaître l'opportunité. De fait, Votre Excellence admet que rien, dans la situation militaire des États-Unis, n'exige que l'on continue à concéder aux insurgés les droits de belligérants, puisqu'elle est prête à retirer cette concession dès que nous aurons renoncé à nos prétentions sur le droit de visiter des navires neutres. Je crois pouvoir dire que l'opportunité ou l'inopportunité de nos prétentions à visiter les navires neutres est une question entre nous et celle des Puissances neutres que nous pourrions avoir lésée; et, quelle que fût la décision, elle ne se rapporterait nullement à la question de belligérance dans les États-Unis. Le fait qu'un navire neutre aurait été visité par un croiseur des États-Unis ne constituerait pas, à lui seul, et en l'absence d'autres démonstrations militaires, la preuve de l'existence d'un état de guerre entre les différents États de l'Union américaine. Par conséquent, à défaut d'autres raisons, on ne saurait se fonder sur ce que la renonciation à cette prétention n'a pas été notifiée pour conclure qu'on continue à reconnaître le droit de belligérance. Concéder que la visite d'un navire neutre établit le droit belligérant du visiteur, ce serait priver les Puissances neutres de leur recours légitime contre les abus du droit de visite. ¶ En outre, en demandant que la Déclaration de juin 1861 soit retirée, le Gouvernement des États-Unis a abandonné tous les droits de belligérants auxquels il est présumé avoir prétendu, et il est devenu directement responsable de tout acte qu'il pourrait commettre à titre de belligérant. ¶ Si le Gouvernement des États-Unis, la Déclaration impériale étant retirée, visitait un bâtiment neutre, il s'exposerait

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aussitôt à des représailles, de même que pour toute autre violation de la loi internationale. Exiger d'un non belligérant la renonciation au droit de visite, cela revient à exiger qu'il renonce au droit de faire la guerre à une puissance neutre, ce qui est une contradiction complète. L'acte de visiter un navire neutre est un acte distinct et indépendant, qui ne saurait se justifier par un acte semblable, ou par une nécessité antérieure de même nature; c'est un acte qu'un grave danger public peut seul excuser. Le danger venant à cesser, le droit cesse en même temps, que les priviléges inhérents à un état préexistant de belligérance aient été répudiés ou non. ¶ S'il en était autrement, et si l'on admettait le principe d'après lequel Votre Excellence se propose d'agir, les États-Unis pourraient continuer avec impunité à visiter les navires neutres et à jouir des autres priviléges d'un belligérant, tant qu'ils omettraient d'y renoncer formellement. Or il suffit d'énoncer une pareille proposition pour en démontrer l'inadmissibilité. Aucune puissance neutre ne saurait renoncer au droit de décider elle-même si elle veut reconnaître à une autre nation qui les réclame les priviléges d'un belligérant. Je ne puis me rappeler un seul cas où une nation quelconque ait jamais fait pareille renonciation. ¶ Étant bien persuadé que ces idées sont exactes, je ne saurais cacher le désappointement que j'ai éprouvé en lisant la réponse de Votre Excellence à ma communication du 10. Je ne puis encore renoncer à l'espoir que, dans les nouvelles récemment arrivées d'Amérique annonçant l'arrestation du principal instigateur et chef officiel de l'insurrection, avec ses compagnons fugitifs, et leur remise entre les mains de la justice, Votre Excellence voudra bien voir un nouveau motif de retirer une Déclaration dont le maintien ne peut aujourd'hui que refroidir les relations qui existent entre deux nations que leurs intérêts et leurs traditions invitent à rester dans les termes de l'amitié la plus cordiale. ¶ Je profite de cette occasion, etc.

John Bigelow.

No. 2118.

FRANKREICH. — Min d. Ausw. an den Kais. Ges. in Washington. — Den vorangegangenen Notenwechsel mit d. Nordamerik. Ges. in Paris betr. —

Paris, le 30 mai 1865.

No. 2118. Frankreich, 30. Mai 1865.

Monsieur, j'ai vu hier M. le Ministre des États-Unis. Il venait m'apporter sa réponse à la communication par laquelle je lui avais annoncé que le Gouvernement de l'Empereur était disposé à se départir des mesures restrictives que sa qualité de neutre l'avait obligé de prendre, aussitôt qu'il serait informé que le Gouvernement des États-Unis renonçait de son côté à exercer, contre les bâtiments neutres, les droits de visite et de capture. ¶ M. Bigelow a cru devoir élever des objections contre les termes que j'avais employés, et faire ses réserves sur le sens technique que comportent ces mots, „État de guerre déclaré,“ en me disant que jamais le Gouvernement des États-Unis n'avait fait de déclaration de guerre aux États du Sud. J'ai répliqué à cette observation, que la lutte entre les deux parties de l'Union Américaine avait incontestablement

revêtu tous les caractères qui peuvent rendre public et manifester l'état de guerre. Dès l'origine de ce conflit et pendant toute sa durée, de part et d'autre, les proclamations les plus énergiques venaient incessamment rappeler au monde, par de solennels témoignages, la guerre terrible qui ensanglantait le sol américain. Le traitement même que le Gouvernement Fédéral avait accordé à ses ennemis, pour l'échange des prisonniers et pour les divers rapports des armées belligérantes entre elles, était conforme aux usages ordinaires de la guerre. Enfin, ce qui nous touchait le plus particulièrement, les États-Unis n'avaient pas hésité à appliquer aux bâtiments neutres le droit de visite qu'un état de guerre ouverte peut seul justifier. ¶ J'ai rappelé à M. Bigelow que, hors le cas de guerre, suivant la doctrine que nous avions toujours défendue et que nous avions été heureux de voir les États-Unis soutenir jusqu'ici avec nous, aucun acte de visite, de recherche ou de capture, ne peut être exercé sur un bâtiment naviguant en pleine mer par un bâtiment étranger, si ce n'est à l'égard de pirates qui sont hors la loi des nations, ou à l'égard d'un navire faisant la traite des nègres, lorsque des conventions spéciales entre deux pays reconnaissent expressément à leurs marines respectives ce droit exceptionnel. ¶ Il ne m'a pas paru, d'ailleurs, utile de suivre M. Bigelow dans les discussions théoriques où il s'engageait. Mais j'ai relevé avec satisfaction dans sa lettre la déclaration que le Gouvernement fédéral, en nous demandant de retirer aujourd'hui l'acte par lequel nous avions proclamé notre neutralité, abandonnait par cela même tous les priviléges de belligérant auxquels il avait pu prétendre. C'est précisément ce que nous demandions. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2118. Frankreich, 30. Mai 1865.

No. 2119.

FRANKREICH. — Min. d. Ausw. an den Ges. der Verein. St. in Paris. — Antwort auf dessen Note vom 20. Mai (No. 2117) und Zurücknahme der Anerkennung der Conföderirten als kriegsführender Macht. —

Paris, le 31 mai 1865.

Monsieur, j'ai l'honneur de vous accuser réception de la lettre que vous m'avez adressée avant-hier, en réponse à ma communication du 20 de ce mois. ¶ Les observations que ma dernière note vous a suggérées roulent, pour la plupart, sur des points de théorie dont la discussion entre nous ne paraît ni opportune ni utile au but que nous nous proposons tous deux. Je crois que, sans entrer dans des considérations de cet ordre, il est à propos, pour la question que nous traitons, de nous en tenir à la réalité des faits. ¶ Nous avons, il y a quatre ans, proclamé notre neutralité, parce que nous étions en présence d'hostilités manifestes. Le Gouvernement fédéral avait d'ailleurs envers les neutres des droits de guerre, et reconnaissait lui-même implicitement aux confédérés le caractère de belligérants. ¶ J'ai constaté, dans ma lettre du 20 mai, le changement profond et décisif apporté à la situation respective des deux parties par les événements militaires accomplis depuis deux mois. Déjà, en raison de ce changement, nous avons pu donner aux États-Unis un témoignage de notre bon vouloir

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en rappelant sur-le-champ la disposition qui limitait le séjour des navires de guerre fédéraux dans les ports de l'Empire. En portant cette résolution à votre connaissance, je vous annonçais notre intention de révoquer sans retard toutes les autres restrictions qu'implique notre déclaration de neutralité, du moment où nous saurions que le Gouvernement de l'Union, cessant de se considérer comme belligérant, n'exerce plus le droit de visite et de capture sur les bâtiments neutres. Car il serait contradictoire de conserver les droits de la guerre en réclamant de nous l'abandon de notre neutralité. ¶ Aussi, Monsieur, ai-je lu avec une satisfaction sincère, dans votre lettre du 29 mai, des expressions dont je dois inférer que les dispositions du Gouvernement fédéral sont, à cet égard, telles que nous pouvons les désirer au point de vue pratique. Vous me dites en effet: „Que le Gouvernement des États-Unis, en demandant que notre déclaration de juin 1861 soit retirée, a abandonné tous les droits de belligérant auxquels il est présumé avoir prétendu, et est devenu directement responsable de tout acte qu'il pourrait commettre à titre de belligérant." Puis vous ajoutez: „Si ce Gouvernement, la déclaration impériale étant retirée, visitait un bâtiment neutre, il s'exposerait aussitôt à des représailles, de même que pour toute autre violation des égards prescrits par la loi internationale." ¶ Ces déclarations, Monsieur, répondent précisément à ce que j'ai eu l'honneur de vous demander, et nous mettent d'accord sur l'objet que nous avons en vue. Nous n'avons donc plus d'objection à retirer aux Confédérés la qualité de belligérants, et je me félicite avec vous de cette nouvelle occasion de ranimer les anciennes sympathies de deux peuples qui trouvent dans leurs intérêts, comme dans leurs traditions, une invitation constante à cultiver la plus cordiale amitié. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2120.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Uebersendung einer Abschrift der vorangehenden Note an den Ges. der V. St. in Paris. —

Paris, le 1 juin 1865.

No. 2120. Frankreich, 1. Juni 1865.

Monsieur le Marquis, ainsi que je vous l'annonçais dans ma dépêche précédente, j'ai adressé à M. le Ministre des États-Unis ma réponse à sa communication du 29 mai, et je la lui ai remise hier. Vous en trouverez le texte ci-annexé. Après en avoir pris connaissance, M. Bigelow m'a exprimé sans réserves sa satisfaction des résolutions du Gouvernement de l'Empereur. De mon côté, je lui ai répété qu'il devait voir une nouvelle preuve des intentions dont nous n'avions pas cessé d'être animés envers son pays dans l'empressement que nous avons mis à faire disparaître les restrictions que l'état de guerre avait nécessairement apportées dans nos relations. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2121.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten im Auslande. — Das Aufhören der Anerkennung der Conföderirten als kriegsführender Macht betr. —

Paris, le 10 juin 1865.

No. 2121. Frankreich, 10. Juni 1865.

Monsieur, par la dépêche que j'ai eu l'honneur de vous écrire le 27 du mois dernier*), je vous ai annoncé que le Gouvernement de l'Empereur avait révoqué la disposition limitant à vingt-quatre heures la durée du séjour que les navires fédéraux étaient autorisés à faire dans les ports de l'Empire. J'ajoutais que nous n'attendions que le jour où le Gouvernement des États-Unis aurait renoncé à exercer contre les bâtiments neutres le droit de visite et de capture pour supprimer immédiatement toutes les autres restrictions que l'état de guerre avait apportées dans nos rapports avec la marine fédérale. Depuis lors, M. le Ministre des États-Unis m'a fait une communication en date du 29 mai**), qui répond à notre demande. Il y est dit que le cabinet de Washington, en émettant le vœu que la déclaration de neutralité du mois de juin 1861 soit retirée, a, de son côté, abandonné tous les droits de belligérant auxquels il est présumé avoir prétendu, et qu'en conséquence il est devenu directement responsable de tout acte qu'il pourrait commettre à titre de belligérant. ¶ M. Bigelow ajoutait que, si, la déclaration impériale une fois retirée, le Gouvernement fédéral visitait un bâtiment neutre, il s'exposerait aussitôt à des représailles de même que pour toute autre violation des égards prescrits par la loi internationale. Ces explications ayant paru satisfaisantes au Gouvernement de Sa Majesté, il a résolu de ne pas reconnaître plus long-temps de belligérants aux États-Unis. Par une circulaire en date du 9 juin, M. le Ministre de la marine vient de donner des ordres pour que les bâtiments confédérés ne puissent plus être reçus soit dans les ports de France ou des Colonies, soit dans les eaux territoriales de l'Empire, et pour que le pavillon confédéré ne soit plus arboré dans nos ports. Quant à ceux de ces navires qui s'y trouveraient au moment où y parviendront ces nouveaux ordres, ils devront en sortir. Mais ils pourront jouir une dernière fois du bénéfice de la règle en vertu de laquelle un intervalle d'au moins vingt-quatre heures devait être mis entre le départ de tout bâtiment de guerre de l'une des parties, et le départ subséquent de tout navire de guerre de l'autre belligérant. C'est avec satisfaction que nous voyons ainsi disparaître toutes les mesures qui avaient été le résultat de l'état de guerre, et le Gouvernement de l'Empereur se félicite d'avoir pu prendre une décision qui fournit à la France et aux États-Unis une occasion nouvelle d'entretenir et de développer des relations amicales aussi conformes aux intérêts qu'aux sympathies traditionnelles des deux puissances. ¶ Agréez, etc.

Drouyn de Lhuys.

*) No. 2116.
**) No. 2117.

No. 2122.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Washington. — Die Ermordung des Präsidenten Lincoln betr. —

Paris, le 28 avril 1865.

No. 2122. Frankreich, 28. April 1865.

Monsieur, la nouvelle de l'attentat dont M. le Président Lincoln vient d'être victime a causé au Gouvernement Impérial un profond sentiment d'indignation. Sa Majesté a chargé immédiatement un de ses aides de camp de se rendre auprès de M. le Ministre des États-Unis pour l'inviter à en transmettre l'expression à M. Johnson, qui se trouve actuellement investi de la présidence. J'ai voulu moi-même, par la dépêche que je vous ai adressée en date d'hier, vous faire connaître sans aucun retard l'émotion douloureuse que nous avons ressentie, et je tiens aujourd'hui, conformément aux intentions de l'Empereur, à rendre un hommage mérité au grand citoyen dont les États-Unis déplorent la perte. ¶ Élevé à la première magistrature de la République par le suffrage de son pays, M. Abraham Lincoln avait porté dans l'exercice du pouvoir remis entre ses mains les plus solides qualités. La fermeté du caractère s'alliait chez lui à l'élévation des principes. Aussi jamais son âme vigoureuse n'a fléchi devant les redoutables épreuves réservées à son Gouvernement. Au moment où un crime atroce l'a enlevé à la mission qu'il remplissait avec le sentiment religieux du devoir, il avait la conscience que le triomphe de sa politique était définitivement assuré. Ses récentes proclamations sont empreintes des pensées de modération dont il était inspiré en abordant résolûment la tâche de réorganiser l'Union et d'affermir la paix. La suprême satisfaction d'accomplir cette œuvre ne lui a point été accordée; mais, en recueillant ces derniers témoignages de sa haute sagesse aussi bien que les exemples de bon sens, de courage et de patriotisme qu'il a donnés, l'histoire n'hésitera pas à le placer au rang des citoyens qui ont le plus honoré leur pays. ¶ Par ordre de l'Empereur, je transmets cette dépêche à M. le Ministre d'État, qui est chargé de la communiquer au Sénat et au Corps législatif, la France s'associera unanimement à la pensée de Sa Majesté. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2123.

VEREINIGTE STAATEN von **AMERIKA.** — Ges. in Paris an den Kais. Französ. Min. d. Ausw. — Mittheilung der Proclamation des Präsidenten Johnson vom 18. Dec. 1865, betr. die Aufhebung der Sclaverei in den Ver. St. —

Paris, le 5 janvier 1866.

No. 2123. Frankreich, 5. Jan. 1866.

Monsieur le Ministre, j'ai grand plaisir à transmettre à Votre Excellence la copie de la proclamation faite, par ordre du Président Johnson, le 18 décembre dernier, pour annoncer l'abolition définitive de l'esclavage sur tout le territoire des États-Unis. ¶ L'histoire de la France dans les temps passés, ainsi que mes propres observations durant un séjour de plusieurs années au milieu du peuple

français, me font croire que ni les sujets de l'Empereur ni son gouvernement ne sauraient être spectateurs indifférents d'un événement qui opère une si importante amélioration dans la position sociale et politique de plusieurs millions de nos semblables. ¶ Agréez, etc.

No. 2123. Vereinigte Staaten, 5. Jan. 1866.

John Bigelow.

Anlage. — Proclamation.

Vereinigte Staaten, 18. Dec. 1865.

A tous ceux qui les présentes verront, salut. ¶ Il est notifié que le Congrès des États-Unis a voté, le 1er février dernier, la Résolution dont la teneur suit: ¶ „Résolution soumettant aux Législatures des différents États une proposition dans le but d'amender la Constitution des États-Unis: ¶ Le Sénat et la Chambre des représentants des États-Unis d'Amérique, réunis en Congrès, ont résolu, à la majorité des deux tiers de l'une et de l'autre Chambre, que l'article suivant sera proposé aux Législatures des différents États comme amendement à la Constitution; et que ledit article, une fois adopté par les trois quarts desdites Législatures, deviendra immédiatement partie intégrante de ladite Constitution, savoir:

Article 13. „§ 1er. — Il n'existera dans les États-Unis, et dans toute localité soumise à leur juridiction, ni esclavage, ni servitude involontaire, si ce n'est à titre de peine d'un crime dont l'individu aurait été dûment déclaré coupable. ¶ §. 2. — Le Congrès est autorisé à faire exécuter cet article par voie législative."

Or, attendu qu'il résulte de documents officiels déposés dans ce département, que l'amendement à la Constitution des États-Unis proposé comme ci-dessus, a été ratifié par les Législatures de l'Illinois, de Rhode-Island, du Michigan, de Maryland, de New-York, de la Virginie occidentale, du Maine, du Kansas, de Massachusetts, de la Pensylvanie, de la Virginie, d'Ohio, du Missouri, de Nevada, de l'Indiana, de la Louisiane, du Minnesota, de Wisconsin, de Vermont, de Tennessee, d'Arkansas, de Connecticut, de New-Hampshire, de la Caroline du Sud, de l'Alabama, de la Caroline du Nord et de la Géorgie, soit par vingt-sept États; ¶ Attendu que le nombre total des États est de trente-six; ¶ Et attendu que les États ci-dessus désignés, et dont les Législatures ont ratifié l'amendement proposé, constituent les trois quarts du nombre total des États composant les États-Unis. ¶ Pour ces motifs, moi: William H. Seward, Secrétaire d'État des États-Unis, je certifie par les présentes, en vertu de et conformément à la Section II de l'Acte du Congrès approuvé le 20 avril 1818, ayant pour titre: „Acte ayant pour but de pourvoir à la promulgation des lois des États-Unis, etc.", que l'amendement ci-dessus mentionné est devenu valable en tous points et constitue une partie intégrante de la Constitution des États-Unis. En foi de quoi j'y ai apposé ma signature, et fait apposer le sceau du département de l'État. ¶ Fait à Washington, ce 18 décembre 1865, l'an 90 de l'Indépendance des États-Unis d'Amérique.

W. H. Seward.

No. 2124.

FRANKREICH. — Min. d. Ausw. an den Ges. der Verein. St. in Paris. — Die vorstehende Mittheilung betr. —

Paris, 8 janvier 1866.

No. 2124. Frankreich, 8. Jan. 1866.

Monsieur, vous avez bien voulu me communiquer la proclamation par laquelle M. Seward a définitivement sanctionné, par ordre du Président, l'amendement à la Constitution des États-Unis relatif à l'abolition de l'esclavage sur toute l'étendue du territoire fédéral. ¶ Vous avez justement pensé, Monsieur, que ni le Gouvernement de l'Empereur ni l'opinion publique ne pourraient voir avec indifférence une mesure destinée à améliorer la condition morale et matérielle de plusieurs millions de créatures humaines. Nous avons pris nous-mêmes, il y a plusieurs années, l'initiative de la suppression de l'esclavage dans nos colonies. Nous ne pouvions donc qu'applaudir au sentiment généreux qui a inspiré à votre Gouvernement une mesure si conforme au progrès général de l'humanité. ¶ Agréez, etc.

Drouyn de Lhuys.

AFFAIRE DU CHILI.

No. 2125.

FRANKREICH. — Botschaft. in London an den Kais. Min. d. Ausw. — Den Ausbruch der Feindseligkeiten zwischen Spanien und Chili betr. —

Londres, le 18 novembre 1865.

No. 2125. Frankreich, 18. Nov. 1865.

Monsieur le Ministre, la nouvelle apportée par la dernière malle du Pacifique, de la mise en état de blocus des ports du Chili par l'escadre espagnole, a causé une vive émotion dans le haut commerce de Liverpool et de la Cité de Londres. ¶ Les relations commerciales de l'Angleterre avec cette République ont pris, depuis un certain temps, une extension et une importance que l'ordre intérieur et la paix au dehors, si heureusement préservés jusqu'à ce jour par le Gouvernement de Santiago, au milieu des fréquentes commotions politiques des États environnants, ont singulièrement contribué à encourager et à fortifier. Votre Excellence en pourra juger par ce fait, que le chiffre total des importations et des exportations entre les deux pays, qui, en 1849, n'excédait guère huit millions et demi de dollars, a atteint en 1864, vingt-quatre millions de dollars. ¶ Un grand meeting a été tenu à Liverpool par les principaux représentants du commerce, et une députation a été nommée pour appeler la sollicitude du Principal Secrétaire d'État de la Reine sur les mesures à prendre pour sauvegarder ces intérêts. Je dois ajouter que Lord Clarendon lui-même, que j'ai vu hier soir, m'a paru partager jusqu'à un certain point l'émotion produite par cet incident. ¶ Agréez, etc.

Prince *de la Tour d'Auvergne.*

No. 2126.

FRANKREICH. — Min. d. Ausw. an die Kais. Minister der Marine und des Handels. — Die Behandlung der neutralen Schiffe durch den Chef des Spanischen Blokadegeschwaders betr. —

Paris, le 20 novembre 1865.

No. 2126. Frankreich, 20. Nov. 1865.

Monsieur et cher Collègue, je m'empresse de vous faire savoir que l'amiral Pareja, commandant en chef de l'escadre espagnole du Pacifique, a notifié au corps consulaire à Valparaiso, par une circulaire en date du 24 septembre 1865, la rupture des relations diplomatiques entre l'Espagne et le Chili, et la mise en état de blocus des ports de la République. En affirmant en même temps son désir de porter le moindre préjudice possible aux intérêts des neutres, l'amiral Pareja a annoncé qu'il était accordé aux navires de commerce neutres, qui, au moment de sa notification aux consuls étrangers, se trouvaient dans les ports du Chili, un délai de dix jours pour en sortir, soit avec cargaison, soit sur lest. Il était entendu que les capitaines de ces bâtiments devraient d'ailleurs établir que la nationalité qu'ils revendiquaient était bien celle de leurs navires avant la notification du blocus, et cela au moyen d'un certificat *ad hoc* délivré par leurs consuls. Ne devaient jouir toutefois du bénéfice du délai ci-dessus que les bâtiments chargeant à destination d'un port neutre. Ce bénéfice n'était point accordé aux navires qui, se trouvant dans un port de la République, y chargeaient à destination d'un autre port chilien. ¶ Notre agent à Santiago s'est empressé d'informer de la situation M. le commandant en chef de notre division navale du Pacifique, pour le mettre à même d'aviser aux mesures de protection que comporteraient les circonstances. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2127.

FRANKREICH. — Min. d. Ausw. an den Kais. Botsch. in Madrid. — Bemerkungen über die Blokade der Chilenischen Häfen durch die Spanische Flotte. —

Paris, le 21 novembre 1865.

No. 2127. Frankreich, 21. Nov. 1865.

Monsieur, on doit être maintenant informé à Madrid des incidents qui se sont produits à l'arrivée de l'amiral Pareja dans les eaux du Chili, et ont eu pour effet de substituer un état d'hostilités déclarées aux relations amicales que l'arrangement conclu par M. Tavira semblait avoir rétablies entre l'Espagne et le Chili. ¶ Nous ne prétendons nullement nous faire les juges des griefs de l'Espagne, pas plus que nous ne voudrions gêner son action ou les démonstrations militaires auxquelles elle croirait devoir recourir; c'est à elle seule qu'il appartient de décider ce que réclame le soin de son intérêt et de son honneur. Mais le Gouvernement de Sa Majesté Catholique comprendra que celui de l'Empereur se préoccupe aussi des intérêts considérables du commerce français au Chili, et qu'il désire que l'action des belligérants se renferme dans les limites fixées

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par le droit des gens. C'est en me plaçant à ce point de vue que je vous prie, Monsieur, de présenter au premier Secrétaire d'État de la Reine des observations qui nous sont en même temps dictées, je me plais à le dire, par le sentiment des relations amicales que nous entretenons avec le cabinet de Madrid. ¶ Autant que nous pouvons en juger par les informations qui nous sont déjà parvenues, M. l'amiral Pareja, en déclarant les ports du Chili en état de blocus, n'aurait accordé aux navires neutres, pour terminer leurs transactions et quitter ces ports, qu'un délai de dix jours; ce délai est bien court, et les règles consacrées par l'usage en pareille matière autorisaient le commerce neutre à compter sur une plus grande latitude pour mettre ordre à ses affaires, avant le commencement des hostilités. En outre, M. le Commandant en chef des forces espagnoles paraît avoir déclaré en état de blocus les côtes du Chili dans toute leur étendue, tandis que le nombre de bâtiments dont il dispose ne lui permettrait pas de prendre une pareille mesure. Cette manière de procéder ne serait pas conforme à la règle du droit des gens qui veut que le blocus, pour être reconnu, soit effectif, et je ne doute point que le Gouvernement de Sa Majesté Catholique ne s'empresse de déférer sur ce point à l'observation que vous lui présenterez, et n'adresse les instructions nécessaires à M. l'amiral Pareja. ¶ Il serait à désirer que les paquebots-poste, qui sont chargés de transporter les correspondances, pussent continuer leur service, nonobstant le blocus. Vous voudrez donc bien faire connaître à M. Bermudez de Castro l'intérêt que nous attacherions à ce que les bâtiments dont il s'agit fussent l'objet d'une exception qu'il serait, d'ailleurs, facile d'établir sans nuire à l'efficacité des opérations militaires. ¶ En appelant sur ces divers points l'attention de M. le Secrétaire d'État, vous ne manquerez pas d'exprimer à Son Excellence M. Bermudez de Castro nos vœux les plus sincères pour le prompt rétablissement des rapports pacifiques entre l'Espagne et le Chili, et de l'assurer que nous serions heureux d'y contribuer. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2128.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in London. — Die Blokade der Chilenischen Häfen betr. —

Paris, le 22 novembre 1865.

No. 2128. Frankreich, 22. Nov. 1865.

Prince, le Gouvernement de l'Empereur vient de recevoir les dépêches par lesquelles le Consul général de Sa Majesté au Chili rend compte des incidents qui ont suivi l'arrivée de l'amiral Pareja devant Valparaiso. La rupture inopinée des relations de l'Espagne avec le Cabinet de Santiago est un événement aussi regrettable en soi que pour le commerce étranger au Chili. Notre intention ne saurait être, assurément, ni de nous prononcer sur le caractère des réclamations du Gouvernement espagnol, ni de lui contester le droit de prendre les mesures de rigueur qu'il croit devoir adopter. Mais ce que nous sommes fondés à lui demander, aussi bien qu'au Chili, c'est que, dans l'exercice de son droit de belligérant, il ne dépasse pas les limites fixées par les règles internationales. Le blocus

annoncé devra notamment revêtir le caractère effectif qui en peut seul assurer la validité, ainsi que l'amiral Pareja l'a constaté lui-même dans ses instructions aux officiers de son escadre. Je charge l'Ambassadeur de Sa Majesté à Madrid de rappeler au Gouvernement espagnol ce que les neutres sont en droit d'attendre, en pareilles circonstances, des belligérants. Je l'invite à exprimer en même temps le vœu que les steamers de la ligne du Pacifique puissent continuer leur service de transport des correspondances, nonobstant les hostilités. Nous avons déjà donné un exemple de semblable tolérance au moment où nous bloquions certains points de la côte occidentale du Mexique. ¶ Nous souhaitons bien vivement que le conflit qui vient d'éclater ne prenne pas de plus graves proportions et, si l'une et l'autre des Puissances qui s'y trouvent engagées pensaient que nous pouvons quelque chose pour le rétablissement de leurs relations amicales, nous serions certainement heureux d'y concourir. ¶ Agréez, etc.

No. 2128. Frankreich, 22. Nov. 1865.

Drouyn de Lhuys.

No. 2129.

FRANKREICH. — Min. d. Ausw. an den Kais. General-Consul u. Geschäftstr. in Chili. — Den Ausbruch der Spanisch-Chilenischen Feindseligkeiten und die Haltung Frankreichs denselben gegenüber. —

Paris, le 22 novembre 1865.

Monsieur, nous avons appris avec le plus vif regret la rupture des relations diplomatiques entre l'Espagne et le Chili, et la brusque ouverture des hostilités. Il ne nous appartient pas cependant d'entrer dans l'examen des griefs allégués en cette circonstance par le Cabinet de Madrid, ni de mesurer les satisfactions qu'il se croit en droit d'exiger, et nous ne saurions prétendre à contrôler les mesures de rigueur auxquelles il lui convient de recourir. Ce que nous sommes fondés à lui demander aussi bien qu'au Chili, c'est de ne pas dépasser dans l'exercice des droits de belligérant les limites assignées par les règles internationales et par le respect du droit des neutres. Il va de soi, notamment, que le blocus annoncé conservera partout le caractère effectif dont M. l'amiral Pareja a constaté lui-même la nécessité dans ses instructions aux officiers de son escadre. C'est dans cette mesure que j'ai fait part au Gouvernement espagnol de l'impression que nous avions ressentie des nouvelles du Chili. J'ai invité, cependant, l'Ambassadeur de Sa Majesté à Madrid à exprimer le vœu que les steamers de la ligne du Pacifique puissent continuer leur service de transport de correspondances nonobstant les hostilités. Nous avons déjà donné l'exemple d'une semblable tolérance au moment où nous bloquions certains points de la côte occidentale du Mexique. Je n'ai pas à me prononcer ici sur la question de l'emploi des corsaires par les deux belligérants. Il est certain que l'Espagne a refusé d'adhérer au principe de l'abolition de la course. On ne saurait donc lui contester le droit de délivrer des lettres de marque, et son adversaire peut en inférer que le même droit lui appartient. ¶ Je n'ai pas besoin de vous recommander, Monsieur, de conserver, dans les circonstances délicates où vous vous trouvez placé, l'attitude

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impartiale et réservée qui doit être invariablement celle des Représentants des Puissances neutres. Cette attitude n'exclut pas la recherche des moyens de concilier un différend dont nous avons nous-mêmes à souffrir. Les rapports amicaux que nous entretenons avec le Chili et avec l'Espagne, non moins que les intérêts de notre commerce, pour lesquels la crise actuelle est une cause de grave perturbation, nous portent à désirer que le conflit qui vient d'éclater ait promptement un terme. Si donc on venait à penser, d'une part comme de l'autre, que nous pourrions contribuer au rétablissement des relations du Gouvernement espagnol et du Gouvernement chilien, on nous trouverait disposés à nous employer pour amener un résultat si désirable. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2130.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in London. — Geneigtheit Frankreichs und Englands zu einer eventuellen Vermittelung in dem Spanisch-Chilenischen Conflict. —

Paris, le 27 novembre 1865.

No. 2130. Frankreich, 27. Nov. 1865.

Prince, M. Grey a été chargé de m'entretenir du différend de l'Espagne avec le Chili. Il m'a fait savoir que le Gouvernement de Sa Majesté Britannique n'avait adressé à l'Espagne aucune offre de médiation, mais que le Cabinet de Londres serait disposé à une démarche de cette nature, s'il avait au préalable des raisons de croire qu'elle serait acceptée. Lord Clarendon pense que telle serait la meilleure manière de procéder, et il espère que nous n'hésiterions point à adopter une semblable ligne de conduite. Je suis en mesure de vous dire que nous n'avons pas attendu cette communication pour manifester notre sentiment, et que nous avons à cet égard devancé le vœu du Gouvernement anglais. J'ai écrit, en effet, à Madrid le 21 de ce mois, et à Santiago le 22, que, si les parties l'avaient pour agréable, nous serions disposés à seconder un rapprochement dans la forme qui paraîtrait la plus convenable et la plus opportune. C'est dans ce sens que les Représentants de l'Empereur en Espagne et au Chili sont invités à s'exprimer, et je vous prie de vouloir bien en informer lord Clarendon. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2131.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in Madrid. — Die eventuelle Vermittelung zwischen Spanien und Chili betr. —

Paris, le 28 novembre 1865.

No. 2131. Frankreich, 28. Nov. 1865.

Monsieur, depuis votre entretien avec le maréchal O'Donnell, vous avez reçu les informations que je vous ai adressées le 21 de ce mois, et vous avez pu indiquer à M. le Président du Conseil comment le Gouvernement de l'Empereur envisage les complications survenues entre l'Espagne et le Chili depuis l'arrivée

de M. l'amiral Pareja. J'ai fait savoir aussi à Santiago que nous serions disposés à seconder un rapprochement dans le cas où l'une ou l'autre des deux parties nous demanderait d'y contribuer. ¶ M. Grey a été chargé par lord Clarendon de me dire, de son côté, que le Gouvernement britannique n'avait adressé aucune offre de médiation, mais que le Cabinet de Londres serait prêt à proposer ses bons offices s'il avait la certitude qu'ils seraient acceptés. Le principal Secrétaire d'État me faisait exprimer en même temps l'espoir que le Gouvernement de l'Empereur adopterait la même ligne de conduite. Je n'ai eu pour répondre à la communication du Cabinet de Londres qu'à faire connaître à M. Grey dans quel sens je vous avais déjà écrit le 21 novembre, et à M. Flory le 22 du même mois. ¶ Agréez, etc.

No. 2131. Frankreich, 28. Nov. 1865.

Drouyn de Lhuys.

No. 2132.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschaft. in Madrid. — Uebersendung eines Englisch-Französischen Vermittlungsvorschlages in Bezug auf den Spanisch-Chilenischen Conflict. —

Paris, le 4 décembre 1865.

Monsieur, j'ai reçu le rapport en date du 24 du mois dernier, dans lequel vous faites connaître l'entretien qui avait lieu entre le maréchal O'Donnell et M. le Ministre d'Angleterre, et celui que vous avez eu vous-même avec M. le Président du Conseil, au sujet des affaires du Chili. ¶ Son Excellence ayant bien voulu vous dire, ainsi qu'à M. Crampton, que le Cabinet de Madrid serait disposé à prendre en sérieuse considération toute proposition que la France et l'Angleterre jugeraient pouvoir être acceptée par l'Espagne sans préjudice pour sa dignité et son honneur, nous sommes entrés en pourparlers avec le Gouvernement de Sa Majesté Britannique pour rechercher les termes d'une entente. Ainsi que je vous l'ai mandé par le télégraphe, nous sommes tombés d'accord sur les bases d'un arrangement qui me paraît, comme à lord Clarendon, pouvoir être honorablement suggéré aux deux parties. Je vous transmets une copie du mémorandum dont j'ai arrété hier les termes avec le Cabinet de Londres. Vous voudrez bien, après vous en être entendu avec M. Crampton, communiquer ce document à M. le maréchal O'Donnell. Si, comme nous l'espérons, Son Excellence y donne son approbation, les Agents de la France et de l'Angleterre à Santiago seront invités à provoquer de même l'adhésion du Gouvernement chilien et à faire connaître à M. l'amiral Pareja le résultat de leur démarche. Il importerait donc que cet officier général reçût des instructions l'autorisant à signer une Convention avec le Chili, dès que le Gouvernement de cet État aurait accepté les clauses de l'arrangement proposé aujourd'hui à l'approbation du Cabinet de Madrid. ¶ Agréez, etc.

No. 2132. Frankreich, 4. Dec. 1865.

Drouyn de Lhuys.

No. 2137. Frankreich, 18. Dec. 1865.

Chili. La Chambre de commerce du Havre et la Chambre syndicale du commerce d'exportation m'avaient déjà adressé des communications semblables à celles que vous voulez bien me transmettre. J'avais répliqué qu'il ne dépendait pas du Gouvernement de l'Empereur de conjurer les conséquences des fâcheuses complications survenues entre l'Espagne et le Chili, mais qu'il s'était empressé de rappeler à l'un et à l'autre des belligérants l'obligation où ils se trouvaient de veiller à ce qu'aucune infraction aux règles internationales ne vînt aggraver, pour les neutres, les préjudices malheureusement inhérents à l'état de guerre. Dans l'une des pièces dont vous m'avez fait l'envoi, les pétitionnaires se plaignent particulièrement de l'insuffisance des délais accordés aux neutres par l'amiral espagnol. Les observations qu'ils présentent à ce sujet reposent sur une erreur qu'il me paraît à propos de vous signaler. Les neutres ne sont pas, comme ils le croient, en droit de réclamer un délai à la fois pour les navires venant du large et pour ceux qui se trouvent déjà dans les ports déclarés en état de blocus. C'est seulement à ces derniers qu'il est de règle d'accorder un certain délai, afin de leur permettre de terminer leurs transactions et de s'éloigner. Il est équitable, en effet, que des bâtiments entrés dans un port étranger, lorsque son accès était entièrement libre, ne soient pas contraints à y demeurer par la mise en état de blocus. C'est donc, comme vous l'avez vu par ma lettre du 20 novembre *), aux navires placés dans cette situation que l'amiral Pareja a accordé un délai de dix jours pour sortir des ports chiliens, soit avec cargaison, soit sur lest. J'ai d'ailleurs, comme les pétitionnaires, jugé que ce terme était un peu court, et j'ai chargé l'ambassadeur de Sa Majesté à Madrid d'en faire l'observation au Cabinet espagnol. Je n'ai pu invoquer, toutefois, aucune règle absolue, les belligérants étant les seuls juges de la latitude qu'ils entendent accorder aux neutres à cet égard. Quant aux bâtiments de commerce qui se présentent devant un port dont le blocus a été déclaré et est effectif, l'usage ne les autorise pas à compter qu'il leur sera laissé un délai semblable pour y pénétrer. Il est facile de comprendre que, s'il en était autrement, un blocus perdrait, dans bien des cas, toute son efficacité, ou ne pourrait plus s'exercer au moment le plus opportun. Il est un autre point dans la mesure adoptée par M. le Commandant des forces espagnoles qui avait motivé de ma part des observations auprès du Cabinet de Madrid. Sa déclaration de blocus s'appliquait à l'ensemble des côtes du Chili, tandis que les forces dont il dispose ne lui permettent évidemment pas de le rendre effectif sur une aussi grande étendue de littoral. M. l'amiral Pareja a senti de lui-même la convenance de restreindre la mesure qu'il avait prise, et mes dernières informations m'apprennent qu'il a limité son blocus aux six ports chiliens suivants: Valparaiso, Coquimbo, Caldera, Herradura, Tomé et Talcahuano. Les bâtiments de commerce pourront donc entrer dans les autres ports de la République. ¶ Agréez, etc.

Drouyn de Lhuys.

*) No. 2126.

No. 2138.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in Madrid. — Die bei der Chilenischen Regierung gethanen Schritte zur Beilegung des Spanisch-Chilenischen Conflictes betr. —

Paris, le 19 décembre 1865.

No. 2138. Frankreich, 19. Dec. 1865.

Monsieur, j'ai reçu avec votre dernière dépêche la réponse du Premier Secrétaire d'État de Sa Majesté Catholique à la communication par laquelle vous lui faisiez connaître l'arrangement amiable proposé par les Cabinets de Paris et de Londres en vue de terminer le différend qui divise l'Espagne et le Chili. Il en résulte que le Cabinet de Madrid, désirant mettre fin à une situation préjudiciable aux deux pays, accepte les bons offices de la France et de la Grande-Bretagne sur les bases indiquées par elles. Nous espérons que, de son côté, le Gouvernement chilien se montrera disposé à se rallier à cet arrangement. J'ai à cet effet informé notre consul général au Chili des intentions conciliantes du Cabinet de Madrid, et je lui ai transmis des instructions analogues à celles que le Gouvernement de Sa Majesté Britannique adresse de son côté à son agent à Santiago. Elles lui prescrivent d'insister vivement auprès du Gouvernement chilien pour obtenir son adhésion aux conditions indiquées dans notre memorandum, et de ne rien négliger pour faciliter un rapprochement entre l'Espagne et le Chili. Je fais en même temps connaître à M. Flory les ordres envoyés de Madrid à l'Amiral Pareja, et dont M. l'Ambassadeur d'Espagne a bien voulu me communiquer la teneur. J'indique à notre agent les mesures à prendre pour constater le rétablissement des bons rapports entre les deux Gouvernements, dans le cas où il s'effectuerait, comme nous avions lieu de l'espérer. ¶ Agréez, etc.

Drouyn de Lhuys.

AFFAIRES DE LA PLATA.

No. 2139.

FRANKREICH. — Kais. General-Consul und Geschäftstr. in Montevideo an den Min. d. Ausw. — Die Einnahme von Paysandu durch Brasilianische Truppen betr. —

Montevideo, le 14 janvier 1865.

No. 2139. Frankreich, 14. Jan. 1865.

Monsieur le Ministre, la division du général brésilien Menna Barreto étant arrivée le 29 décembre sous les murs de Paysandu, l'attaque a recommencé dès la matinée du 31. Cinq canonnières et huit mille hommes, tant Brésiliens que Colorados, y ont pris part, et après cinquante-deux heures de combat, la ville est tombée aux mains des assiégeants. ¶ La nouvelle de la chute de Paysandu a naturellement produit une vive émotion à Montevideo, dont les habitants ont craint de se voir à leur tour attaqués par les forces alliées. Le Gouvernement a pris à la hâte des mesures de défense: la ville s'entoure de fossés, de retranchements, de fortins, et l'on voit déjà dans l'enceinte retranchée

No. 2139. Frankreich, 14. Jan. 1865.

les milices que l'on a rappelées de la campagne. Le Gouvernement de M. Aguirre a, d'un autre côté, pris une résolution que je dois porter à la connaissance de Votre Excellence; il a chargé d'une mission en Europe M. Candido Juanico, président du tribunal d'appel. Cet envoyé va partir incessamment. ¶ Veuillez agréer, etc.

Maillefer.

No. 2140.

FRANKREICH. — Min. d. Ausw. an den Kais. General-Consul in Montevideo. — Bericht über eine Unterredung mit dem Uruguay'schen Abgesandten Juanico und Ablehnung jeder Einmischung in den Conflict zwischen Paraguay und Brasilien. —

Paris, le 6 mars 1865.

No. 2140. Frankreich, 6. März 1865.

M. Juanico est arrivé à Paris, et je crois devoir vous faire connaître à titre d'information le résumé de mon entretien avec lui. M. Juanico m'a fait part des appréhensions que la conduite et les vues du Brésil inspirent à son Gouvernement. Suivant lui, les réclamations de la Cour de Rio ne seraient qu'un prétexte pour attenter à l'indépendance de la République orientale. L'absorption de l'Uruguay par l'empire voisin serait le but réel que l'on poursuivrait en prétendant ne chercher que la réparation de griefs mal fondés. Les Gouvernements qui ont, comme la France, de grands intérêts et de nombreux nationaux à protéger dans la bande orientale ne sauraient voir avec indifférence se réaliser les desseins du Cabinet brésilien. Sous le rapport commercial comme sous le rapport politique, les résidants étrangers jouissent à Montevideo du traitement le plus favorable au développement de leurs intérêts. La liberté de navigation du Rio de la Plata et de ses affluents est essentiellement liée au maintien de l'existence de l'Uruguay comme État indépendant sur la rive gauche. Les Puissances n'auraient pas à se louer de la substitution du régime administratif et douanier du Brésil au régime actuel de l'Uruguay. L'extension à cette contrée de l'institution de l'esclavage achèverait, en outre, d'y transformer les conditions du travail et de la propriété de la manière la plus tristement préjudiciable à tous ceux qu'une législation libérale et un autre état de choses avaient appelés à Montevideo. Enfin la guerre, en se prolongeant, et quel qu'en fût le résultat, imposerait à l'Uruguay des charges écrasantes, qui ruineraient toutes ses ressources et le placeraient dans l'impossibilité de tenir ses engagements vis-à-vis de ses créanciers étrangers. Toutes ces considérations devaient déterminer la France à interposer sa médiation entre les belligérants. ¶ J'ai répondu à M. Juanico que nous avions déploré la guerre dans laquelle son pays se trouvait engagé, et que nous avions prévu avec un vif regret les préjudices qui en pourraient résulter pour les intérêts étrangers. Dès le début du conflit, nous nous étions préoccupés de ses conséquences et de son dénouement, et nous devions accepter comme loyales et sincères les assurances formelles et réitérées de la Cour de Rio, qu'elle ne songeait à porter aucune atteinte à l'intégrité et à l'indépen-

dance souveraine de l'État oriental. En présence de l'affirmation très-nette qu'elle ne poursuivait que la réparation de torts dont nous n'étions pas juges, nous devions décliner la médiation que le Cabinet de Montevideo voudrait nous déférer. En acceptant de nous interposer entre les deux parties, nous devrions nous attendre aux résistances du Brésil, résistances dont nous ne pourrions triompher sans doute qu'en recourant à une pression qui altérerait promptement le caractère amical et conciliant que nous voudrions conserver à nos démarches. Or nous n'entendons pas intervenir seuls d'une manière plus active dans la question. En toute hypothèse, nous ne nous serions immiscés directement dans le conflit existant que de concert avec le Gouvernement anglais. Nous avons consulté à ce sujet le Cabinet de Londres, dont les intérêts sont identiques aux nôtres, et que des actes publics autorisent plus que nous encore à veiller à l'indépendance de l'Uruguay; il nous a fait connaître son intention, publiquement manifestée depuis, de s'abstenir de toute intervention dans la lutte actuelle. Nous n'avons pas, en ce qui nous concerne personnellement, de motifs assez puissants pour agir différemment. J'ai ajouté que cette attitude ne nous empêcherait pas de suivre avec la même sollicitude la marche des événements dans ces contrées. ¶ Recevez, etc.

No. 2140. Frankreich, 6. März 1865.

Drouyn de Lhuys.

No. 2141.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Buenos-Ayres. — Festhalten der Neutralität Frankreichs gegenüber dem Kriege von La Plata. —

Paris, le 24 juin 1865.

Monsieur, la lutte définitivement déclarée entre le Paraguay, d'une part, et les Cabinets de Rio, de Montevideo et de Buenos-Ayres, d'autre part, ne doit pas, quelque regret qu'elle nous inspire au point de vue du trouble qu'elle perpétue dans le bassin général de la Plata, nous faire dévier de la ligne de neutralité que nous nous sommes tracée. Notre préoccupation doit se porter exclusivement sur la protection dont nos nationaux pourraient avoir besoin. J'approuve donc la sollicitude qui vous a amené à demander à M. l'amiral Chaigneau d'avoir la canonnière *la Décidée* à votre disposition. ¶ Recevez, etc.

No. 2141. Frankreich, 24. Juni 1865.

Drouyn de Lhuys.

No. 2142.

FRANKREICH. — Geschäftstr. in Buenos-Ayres an den Kais. Min. d. Ausw. — Sendung des Schiffes „La Décidée“ nach dem Uruguay zum Schutze der Franzosen in Paso de los Libres. —

Buenos-Ayres, le 14 juillet 1865.

No. 2142. Frankreich, 14. Juli 1865.

Monsieur le Ministre, les Français habitant la ville de Paso de los Libres (Restauracion), aujourd'hui si directement menacée par la guerre, et ceux

No. 2142. Frankreich, 14. Juli 1865.

de la Concordia, m'ayant fait demander, de vive voix et par écrit, l'envoi d'un de nos bâtiments dans leurs parages, j'ai cru devoir, après m'être entendu verbalement avec le commandant de *la Décidée*, lui adresser les instructions ci-jointes, en le priant de se rendre, le plus tôt possible, dans les eaux de l'Uruguay. En présence des événements qui se passent sur ce fleuve, je ne saurais refuser à nos compatriotes l'envoi momentané de ce navire, dont la mission sera semblable à celle qu'il a déjà remplie à Fray-Bentos et à Paysandu. J'espère que Votre Excellence voudra bien approuver la disposition que j'ai prise. ¶ Veuillez agréer, etc.

de Vernouillet.

No. 2143.

FRANKREICH. — Geschäftstr. in Buenos-Ayres an den Kais. Commandanten des „La Décidée". — Instruction für den Letzteren in Betreff des Schutzes der Franzosen. —

Buenos-Ayres, 14 juillet 1865.

No. 2143. Frankreich, 14. Juli 1865.

Monsieur le Commandant, l'approche de l'armée paraguayenne du Paso de los Libres et de la Concordia, me paraissant de nature à rendre votre présence utile aux résidents français de ces deux villes, je viens vous prier de vouloir bien vous mettre en mesure de remonter le fleuve jusqu'à la Concordia, où vous n'auriez, d'ailleurs, à rester que le temps qui vous paraîtra nécessaire. ¶ Conformément au désir exprimé par M. le contre-amiral Chaigneau, dans les instructions qu'il vous a laissées à la date du 10 mai, vous voudrez bien informer confidentiellement M. Maillefer de votre départ, en vous mettant à sa disposition pour les points de la rive gauche de l'Uruguay devant lesquels vous aurez nécessairement à passer. J'écris d'ailleurs directement à ce sujet à notre Chargé d'affaires à Montevideo. ¶ Une fois vos préparatifs terminés, vous devrez, du reste, quitter sans retard cette dernière ville, pour arriver le plus tôt possible aux environs de la Concordia. ¶ Je connais trop le zèle et la prudence dont vous avez déjà donné tant de preuves, pour insister longuement sur la mission que j'ai l'honneur de vous confier. ¶ Vous aurez, s'il y a lieu, à sauvegarder les intérêts de nos nationaux de la manière que vous jugerez le plus convenable, tout en apportant dans vos démarches la plus grande modération, et en conservant, surtout vis-à-vis des belligérants, la plus stricte neutralité. C'est particulièrement ce dernier conseil d'impartialité qu'il importe de répéter sans cesse à ceux de nos compatriotes avec lesquels vous pourrez entrer en relations. ¶ Quant aux résidents étrangers, Espagnols, Anglais ou Italiens, vous n'hésiteriez pas, au besoin, à leur rendre les services qu'ils pourraient réclamer de vous par réciprocité de ceux que les canonnières des marines anglaise et italienne ont récemment prêtés dans le Parana à nos compatriotes. ¶ Recevez, etc.

de Vernouillet.

No. 2144.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Buenos-Ayres. — Die Rechte der Neutralen zum Schutze ihrer Angehörigen betr. —

Paris, le 7 novembre 1865.

No. 2144. Frankreich, 7. Nov. 1865.

Monsieur, j'écrivais à M. de Vernouillet le 23 septembre que j'avais demandé au Cabinet de Londres de me faire connaître son avis sur la question que soulevait l'incident provoqué par la présence du *Dotterel* dans le Haut-Parana. Il vient de nous communiquer les instructions qu'il a transmises à son représentant à Buenos-Ayres. Le Gouvernement de la Reine pense avec nous que l'état de guerre actuel et l'alliance du Cabinet de Rio avec celui de Buenos-Ayres n'ont pu porter atteinte au principe de libre navigation proclamé par les traités. Il lui paraît seulement un peu plus délicat peut-être qu'à nous de revendiquer pour les navires de guerre le droit de remonter les eaux de la Plata, dans les conditions présentes, aussi librement que peuvent le faire les navires marchands. La différence entre notre sentiment et le sien est, du reste, plus apparente que réelle, car nous ne soutenons point que notre pavillon de guerre ait à cet égard un droit absolu, s'appuyant comme pour notre pavillon marchand sur les termes mêmes des traités. Nous nous bornons à invoquer l'esprit des actes internationaux qui ont eu pour objet d'ouvrir de la manière la plus complète le bassin intérieur de la Plata à la navigation de tous les peuples, et ce fait qu'en temps ordinaire nos navires de guerres sont admis à remonter le Rio de la Plata et ses affluents pour y protéger nos nationaux; nous nous en autorisons pour combattre la prétention de leur interdire l'accès de ces eaux alors justement que la sécurité de nos résidents peut réclamer l'apparition de notre pavillon de guerre: or c'est en définitive à cette conclusion qu'arrive aussi le Gouvernement britannique en déclarant d'abord que le commandant du *Dotterel* ne mérite aucun blâme pour la conduite qu'il a tenue, c'est-à-dire pour avoir sauvé la personne et les biens des sujets anglais en évitant soigneusement de se mêler aux hostilités. En outre, il ne lui semble pas contraire aux règles internationales de considérer le droit des sujets neutre à être protégés comme aussi bien fondé que celui des belligérants à établir un blocus. A la vérité, dès qu'il n'y a pas danger manifeste pour les sujets britanniques à agir de la sorte, il juge convenable que le bâtiment de guerre qui voudra franchir la ligne de blocus ait, à cet effet, l'assentiment des forces bloquantes, et il a chargé M. Thornton d'obtenir du Cabinet de Rio la permission pour les navires de guerre anglais de remonter les rivières. Mais je ne vois aucun inconvénient à ce que nous réclamions aussi en pareil cas l'acquiescement des belligérants à notre passage à travers la ligne de blocus, toute réserve étant faite, comme il est indiqué dans la dépêche à M. Thornton, pour les circonstances d'urgence où il serait impossible de chercher à s'assurer de cet acquiescement sans laisser en péril évident nos nationaux ou leurs intérêts. Il est, d'ailleurs, bien entendu qu'en se portant immédiatement à leur aide, nos navires de guerre se borneraient strictement aux mesures de protection commandées par les circonstances. Je n'ai pas besoin d'ajouter qu'une entente entre les

No. 2144. Frankreich, 7. Nov. 1865.

agents du Département et les Commandants de nos forces navales devrait toujours, autant que possible, décider de la conduite à tenir. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2145.

FRANKREICH. — Ges. in Buenos-Ayres an den Kais. Min. d. Ausw. — Die unbehinderte Fahrt neutraler Kriegsschiffe auf den Flüssen am La Plata betr. —

Buenos-Ayres, le 9 novembre 1865.

No. 2145. Frankreich, 9. Nov. 1865.

Monsieur le Ministre, j'ai reçu la dépêche que Votre Excellence a bien voulu adresser à la Légation, sous la date du 23 septembre. Il paraît constant que le Gouvernement argentin et les Agents brésiliens ont renoncé de fait à la prétention d'interdire aux bâtiments de guerre étrangers l'accès du haut des fleuves. Aussi n'ai-je rencontré aucune opposition au voyage de *la Décidée*, qui se rend à l'Assomption, emmenant le Secrétaire de la Légation de l'Empereur. ¶ Veuillez agréer, etc.

Lefebvre de Bécourt.

JAPON.

Négociations avec le Japon.

No. 2146.*)

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Bewilligung mehrerer Begünstigungen von Seiten der Japanes. Regierung in Betr. des Französ. Etablissement in Yokohama. —

Yokohama, le 17 décembre 1864.

No. 2144. Frankreich, 17. Dec. 1864.

Monsieur le Ministre, nous avons obtenu du Gouvernement japonais la solution définitive de plusieurs questions d'utilité publique, relatives à notre établissement de Yokohama, et nous pouvons, dès à présent, assister au commencement d'exécution des principales mesures que nous avions sollicitées. ¶ Parmi ces améliorations je citerai: ¶ La construction d'une route de parc d'un parcours de deux lieues environ, et qui sera pour la colonie européenne un véritable bienfait; ¶ La création d'un champ de manœuvre qui sera également utilisé comme champ de courses; ¶ Le desséchement du marais situé aux abords de la ville, et dont l'emplacement sera concédé aux diverses Puissances; ¶ La concession de deux terrains destinés: le premier à la construction d'un hôpital, et le second à l'établissement des Chancelleries de chacun des Consulats. ¶ Veuillez agréer, etc.

Roches.

*) No. 1821—29.

No. 2147.

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Die Stellung des Prinzen von Nagato zur Regierung des Taikun betr. —

Yokohama, le 20 février 1865.

No. 2147. Frankreich, 20. Febr. 1865.

Monsieur le Ministre, bien que le prince de Nagato, encore sous l'impression du châtiment si prompt reçu à Simonosaki, ait fait, vis-à-vis du Gouvernement du Taïcoun, une démarche dont le but était de préparer les voies à une solution conciliante, les Gorodjos n'accordent pas à cette démarche toute la signification qu'elle semblerait comporter. En effet, différents avis venus de Kioto ont informé le Conseil du Taïcoun que le Daïmio Tchochiou trouverait, dans l'entourage même du Mikado, des appuis et des encouragements. L'attitude soumise du prince de Nagato pourrait donc bien n'être dictée que par le désir de gagner du temps, afin de mieux résister plus tard aux forces réunies par le Taïcoun. La réponse du Gouvernement japonais aux avances du Daïmio rebelle s'est ressentie de cette défiance, et il lui a été signifié qu'on ne procéderait à un arrangement que lorsqu'il se serait résolu à se rendre de sa personne, et accompagné de son fils, à Yédo. ¶ Les Gorodjos craignent que cette condition ne soit repoussée; aussi, pour parer à toute éventualité, poussent-ils avec activité l'organisation des corps destinés à opérer contre Nagato. Le Taïcoun est dans l'intention de prendre le commandement de ces troupes. ¶ Bien qu'on ne puisse méconnaître la gravité des circonstances dans lesquelles se trouve actuellement placé le Gouvernement de Yédo, nous avons lieu d'espérer que les forces morales et matérielles dont il dispose assureront son triomphe dans la lutte diplomatique ou armée qui va s'engager. Or, ai-je besoin de le répéter ici, l'intérêt des Puissances étrangères veut que ce succès ne se fasse pas attendre, car il préparera les voies à la ratification officielle de nos traités par le Mikado, ratification dont, en principe, nous n'avons pas à nous préoccuper, mais qu'il serait, en fait, essentiel d'obtenir pour que la légitimité de nos conventions fût définitivement consacrée aux yeux des Daïmios. ¶ Je ne manque pas, dans chacune de mes conférences avec les Ministres du Taïcoun, de leur rappeler que ce Prince a le même intérêt que nous à obtenir une ratification exigée par les statuts de l'empire. Mais le Gouvernement de Yédo n'a plus besoin d'être éclairé sur ce sujet; les négociateurs spéciaux qu'il a envoyés à Kioto sont munis d'instructions précises, et s'ils ont été momentanément arrêtés par un dernier effort du parti rétrograde, ils n'attendent que le moment favorable pour poursuivre un but qu'ils n'ont jamais désespéré d'atteindre. ¶ Veuillez agréer, etc.

Roches.

No. 2148.

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Günstige Stimmung der Japanes. Regierung für die Entwickelung ihrer Handelsbeziehungen mit den Fremden. —

Yokohama, le 26 mai 1865.

No. 2148. Frankreich, 26. Mai 1865.

Monsieur le Ministre, l'attitude énergique du Taïcoun et le renouvellement de son Conseil ont déjà produit une heureuse réaction. Plusieurs Daïmios, disposés d'abord à rester simples spectateurs de la lutte, ont supplié leur souverain de leur permettre de prendre part à son expédition. ¶ Je transmets aujourd'hui à Votre Excellence, sous le timbre de la Direction des Consulats, des renseignements qui prouvent que le Gouvernement japonais a l'intention formelle de favoriser le développement de ses rapports commerciaux avec les étrangers. ¶ Veuillez agréer, etc.

Roches.

No. 2149.

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Uebersendung der Copie eines von den Vertretern der Unterzeichner der Convention vom 22. Oct. 1864 abgefassten Memoirs über ihre Stellung zu dem Conflicte zwischen dem Prinzen von Nagato und dem Taikun. —

Yokohama, le 26 juin 1865.

No. 2149. Frankreich, 26. Juni 1865.

Monsieur le Ministre, depuis le moment où l'attitude prise par le prince de Nagato s'est dessinée dans un sens hostile, soit aux étrangers, soit au Taïcoun, des spéculateurs de nationalités diverses n'ont pas hésité à nouer avec ce Daïmio des relations commerciales dont le but est de lui fournir le matériel nécessaire pour soutenir ses projets de résistance. De semblables opérations pourraient devenir un danger sérieux pour le Taïcoun, en mettant à la disposition de son adversaire des moyens propres à prolonger et à rendre plus meurtrière la lutte dans laquelle il va s'engager. Mes collègues et moi avons cru devoir en conséquence signer le mémorandum ci-joint, par lequel nous déclarons que l'intention de nos Gouvernements respectifs est de maintenir une neutralité absolue dans le conflit qui vient de surgir, que toutefois nos sympathies morales sont acquises au Taïcoun, et que nous sommes décidés à faire respecter les articles de nos traités relatifs à la contrebande. ¶ Veuillez agréer, etc.

Roches.

Anlage. — Mémorandum.

Vertragsmächte, 21. Juni 1865.

Tchochiou, prince de Nagato, s'étant mis en état d'insurrection à l'égard du Taïcoun, et Sa Majesté ayant pris la résolution de marcher elle-même à la tête du corps d'armée destiné à faire rentrer ce Daïmio, son vassal, dans l'obéissance, une guerre civile est imminente, guerre qui, vu le théâtre où elle

aura lieu, peut, à un certain point, compromettre les intérêts des Puissances signataires des Traités en mettant des obstacles à la libre navigation de leurs bâtiments à travers les détroits de Simonosaki. ¶ En présence de cet état de choses, les Représentants des quatre Puissances signataires de la Convention du 22 octobre 1864 ont jugé opportun de se réunir, afin d'aviser, d'un commun accord, aux mesures qu'il convient d'adopter pour sauvegarder les intérêts de leurs nationaux, et d'assurer les résultats qu'ils ont eu en vue d'obtenir, par l'expédition que leurs escadres respectives ont glorieusement dirigée contre les batteries de Simonosaki, au mois de septembre 1864. ¶ Cette réunion a eu lieu en effet le 21 juin 1865, et voici le résumé des déterminations prises par les soussignés:

Considérant que les batteries élevées par le prince de Nagato dans le détroit de Simonosaki avaient eu pour résultat d'intercepter la libre navigation des étrangers dans la mer intérieure et qu'elles ont été désarmées par MM. les Commandants des forces alliées, qui ont imposé audit Prince l'obligation formelle de ne plus les réarmer; ¶ Considérant que les forces alliées n'ont renonce à l'occupation d'une position militaire dans le détroit de Simonosaki qu'à la condition formelle, acceptée par le Gouvernement du Taïcoun, de garantir la libre navigation de cette partie du détroit aux navires étrangers; ¶ Considérant en outre que, si les règles d'une sage politique commandent aux Puissances signataires de la Convention du 22 octobre d'éviter tout acte d'intervention dans le conflit qui vient de s'élever entre le Souverain du Japon et le prince de Nagato, les relations d'amitié et de commerce qui existent entre elles et le Taïcoun, en vertu des traités, leur commandent d'accorder à Sa Majesté un appui moral et les facilités nécessaires pour l'exercice des droits que lui reconnaissent ces mêmes traités. ¶ Par ces motifs, les soussignés ont adopté d'un commun accord les articles suivants, et sont convenus que copie du présent mémorandum serait adressée à MM. les Commandants des forces navales de leurs nations respectives, présentes actuellement au Japon ou qui pourront ultérieurement y arriver.

Art. 1er. Pendant le temps qui s'écoulera à partir de ce jour jusqu'au moment où les forces de terre et de mer du Taïcoun se présenteront dans le détroit de Simonosaki, MM. les Commandants des forces navales des Puissances signataires de la Convention du 22 octobre devraient, en vertu de cette convention, s'opposer au réarmement des batteries du prince de Nagato dans ledit détroit, ou même procéder à leur désarmement si ce Daïmio les avait réarmées; mais, l'exécution de ces mesures pouvant amener des conflits et des complications que les soussignés désirent absolument éviter, MM. les Commandants sont invités, dans cette dernière hypothèse, à faire au prince de Nagato ou à son représentant les remontrances qu'ils jugeraient convenables, et, en tout cas, à constater l'état des choses et à vouloir bien en rendre immédiatement compte aux soussignés, afin qu'ils puissent agir en conséquence auprès du Gouvernement du Taïcoun et mettre leurs Gouvernements respectifs à même de leur donner des instructions à ce sujet.

Art. 2. En dehors de l'objet considéré dans l'article précédent, il importe que MM. les Commandants des forces navales puissent assurer le libre

No. 2149. Frankreich, 26. Juni 1865. [Vertragsmächte, 21 Juni 1865.]

passage du détroit de Simonosaki aux navires étrangers qui font un commerce régulier avec le Japon, et prendre les mesures prévues par les traités pour empêcher les bâtiments de leurs nations respectives de se livrer, sur un point quelconque du territoire de Nagato, à des opérations commerciales qui, en vertu desdits traités, ne sont autorisées que dans les ports ouverts actuellement aux étrangers.

Art. 3. Il importe également d'empêcher que les bâtiments du Taïcoun, qui seraient chargés de s'opposer à ce que les navires étrangers fassent des opérations illicites avec le Prince rebelle, ne dépassent pas en pareil cas les limites du droit et de l'humanité.

Art. 4. Dès que les hostilités auraient commencé dans le détroit entre les forces du Taïcoun et celles de Tchochiou, MM. les Commandants devraient veiller à ce que les navires étrangers passassent en dehors de la portée des feux de l'artillerie, ou même s'abstinssent d'entrer dans le détroit, si le passage offrait pour eux un véritable danger.

Art. 5. Il est bien entendu que toutes les mesures indiquées ci-dessus par les soussignés seront mises à exécution par MM. les Commandants de leurs forces navales, de la façon dont ceux-ci le jugeront convenable, et, en tout cas, que leur désir est que la plus stricte neutralité soit observée par rapport aux opérations militaires du Taïcoun et du Daïmio de Nagato.

Yokohamo, le 21 juin 1865.

Roches. *Winchester.* *Portman.* *Graëff von Polsbrock.*

No. 2150.

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Zufriedenheit des Mikado mit den Massregeln des Taikun. —

Atami, le 9 août 1865.

No. 2150. Frankreich, 9. Aug. 1865.

Monsieur le Ministre, il résulte de mes dernières informations que le Taïcoun, à peine arrivé à Osacca, s'était rendu à Kioto pour y entretenir le Mikado. Jamais ce souverain n'aurait accueilli son lieutenant avec plus d'aménité et de bienveillance. Tous les hauts dignitaires de Kioto avaient été chargés d'aller au devant du Taïcoun et de lui faire cortége jusqu'à son entrée au palais. Le Mikado aurait hautement répudié toutes les idées d'exclusion des étrangers qui formaient naguère la base de la politique japonaise. Il aurait déclaré qu'il comprenait la folie d'une résistance au nouveau courant des choses, et, approuvant la décision prise contre le Daïmio Tchochiou, il aurait formulé les vœux les plus ardents pour le succès de l'expédition dirigée contre le violateur des lois sacrées de l'Empire. ¶ Veuillez agréer, etc.

Roches.

No. 2151.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Japan. — Den Krieg zwischen dem Taikun und dem Prinzen von Nagato betr. —

Paris, le 26 septembre 1865.

No. 2151. Frankreich, 26. Sept. 1865.

Monsieur, d'après vos derniers rapports, le Taïcoun s'était décidé à diriger en personne les opérations militaires préparées contre le Prince de Nagato. Il est vivement à désirer que le jeune souverain persiste dans l'attitude énergique qu'il a été, à son tour, amené à adopter contre le Daïmio, que nous avions été les premiers dans la nécessité de châtier. C'est avec raison que vous avez signalé à M. le contre-amiral Roze l'utilité de veiller plus particulièrement, dans ces circonstances, à ce que le prince de Nagato ne réarme pas ses batteries maritimes. ¶ Recevez, etc. *Drouyn de Lhuys.*

No. 2152.

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Die Ausführung der Convention vom 22. Oct. 1864 betr., nebst Abschrift eines desfallsigen an die Japanes. Regierung gerichteten Memorandums der vier Vertragsmächte. —

Yokohama, 31 octobre 1865.

No. 2152. Frankreich, 31. Oct. 1865.

Monsieur le Ministre, j'ai reçu la dépêche que Votre Excellence m'a fait l'honneur de m'adresser, en date du 26 juillet dernier, et par laquelle elle veut bien me communiquer copie de la note qu'elle a transmise aux Cabinets de Londres, de Washington et de La Haye, relativement à l'exécution de la convention signée, le 22 octobre 1864, par le Plénipotentiaire du Taïcoun et les Représentants des Puissances étrangères au Japon. ¶ Après avoir constaté quelques divergences d'opinion entre les Gouvernements de l'Empereur et de Sa Majesté britannique, au sujet de l'article 3 de ladite convention, Votre Excellence, dans la dépêche précitée, conclut en exprimant le désir de laisser le soin de concilier ces opinions diverses aux Représentants des quatre Puissances au Japon. ¶ Le Cabinet de Londres a accédé à ce désir ainsi que j'ai pu m'en convaincre par la dépêche que Lord Russell a adressée à Lord Cowley et dont la communication m'a été faite par Sir Harry Parkes. ¶ Le Représentant de la Hollande a reçu des instructions identiques. ¶ J'ai pensé, d'après les informations que j'avais précédemment reçues de Votre Excellence, que, sans attendre de nouveaux ordres de sa part, je pouvais reprendre, en même temps que mes collègues, la négociation relative à l'exécution de la Convention du 22 octobre. Six mois s'étant écoulés depuis le moment où quelques divergences à ce sujet s'étaient produites entre les Représentants accrédités à Yédo, la discussion amicale de la question nous avait amenés déjà sur un terrain où notre entente cordiale pouvait tout naturellement s'établir. ¶ Le nouveau Ministre d'Angleterre, Sir Harry Parkes, formulait les trois propositions suivantes en échange de concessions sur l'indemnité:

No. 2152. Frankreich, 31. Oct. 1865.

1° Ouverture anticipée du port d'Hiogo et de la ville d'Osacca;

2° Ratification de nos traités par le Mikado;

3° Révision de nos tarifs de douanes.

Si l'ouverture anticipée d'Hiogo et d'Osacca n'a pas, à mes yeux, le caractère d'urgence que lui attribue mon collègue, je ne puis y voir davantage une cause d'embarras, puisque ces deux ports se trouvent sur les possessions du Taïcoun et que nous pourrons nous y établir dans les mêmes conditions qu'à Nagasaki, Yokohama ou Hakodadi. ¶ Quant à la ratification du Mikado, cette formalité étant l'objet même de notre politique, tous nos efforts doivent tendre à en obtenir l'accomplissement, et nous ne saurions trouver une meilleure compensation à l'abandon de nos droits sur le payement de la totalité de l'indemnité. ¶ Enfin la révision de nos tarifs douaniers n'offrira aucune difficulté. ¶ En conséquence, nous sommes convenus, Sir Harry Parkes et moi, qu'il y avait lieu d'accorder au Gouvernement japonais le délai qu'il a demandé pour le payement du deuxième terme de l'indemnité, et même de lui en abandonner les deux tiers restants, si le Taïcoun s'engageait à nous donner, soit de lui-même, soit en négociant auprès du Mikado, les compensations contenues dans les trois conditions précitées. Toutefois, en acquiesçant à cette proposition, j'ai tenu à répéter à Sir Harry Parkes que je n'entendais la soumettre au Gouvernement japonais qu'autant que celui-ci n'aurait aucune répugnance à l'accueillir, attendu que la Convention du 22 octobre 1864 lui donnait le droit formel de la repousser, s'il préférait s'en tenir au solde intégral de l'indemnité. ¶ Mon collègue a non-seulement accepté cette réserve, mais encore il l'a formulée lui-même; car il n'avait jamais eu l'intention, m'a-t-il dit, de dénier au Taïcoun la faculté que je mentionnais. ¶ Ce principe étant établi, j'ai demandé à Sir Harry Parkes quand et comment il comptait ouvrir cette négociation. Mon collègue m'a répondu qu'en l'absence du Taïcoun, il n'était pas permis d'espérer de traiter efficacement une affaire de cette importance par l'intermédiaire des membres du Conseil actuellement présents à Yédo, et que, d'ailleurs, étant accrédité auprès de la personne du Taïcoun il avait le droit d'aller le rejoindre. Sir Harry Parkes a ajouté que la présence de ce Prince auprès du Mikado était une circonstance dont il fallait profiter pour hâter la solution de la question, car nous supprimerions ainsi les retards que nous éprouverions infailliblement dans la négociation, si nous attendions le retour du Taïcoun à Yédo pour l'entreprendre. ¶ Après m'être assuré auprès du Gorodjo que cette démarche n'était de nature ni à compromettre le Taïcoun, ni à m'engager au delà des limites assignées à mon action, je me suis rallié à l'opinion de M. le Ministre d'Angleterre. Nous nous sommes donc réunis, mes collègues et moi, en conférence, et nous avons rédigé le mémorandum dont je joins ici une copie. ¶ La lecture de ce document et les explications contenues dans la présente dépêche permettront, je l'espère, à Votre Excellence d'apprécier le véritable caractère de la démarche que nous allons accomplir d'un commun accord. ¶ C'est une mission toute pacifique qui peut nous procurer de sérieux avantages sans risquer de compromettre en rien la situation actuelle, ni de nous faire départir de la neutralité qui nous est prescrite par nos instructions. ¶ La frégate de Sa Majesté *la Guerrière* me

conduira jusqu'à Osacca, où elle séjournera peu de temps. ¶ Yokohama jouit de la tranquillité la plus parfaite. ¶ Veuillez agréer, etc.

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Roches.

Anlage. — Memorandum.

Vertragsmächte, 30. Oct. 1865.

En vertu de la Convention signée le 22 octobre 1864, le Gouvernement japonais s'est engagé à payer aux Gouvernements d'Angleterre, de France, des États-Unis d'Amérique et des Pays-Pas, une somme de trois millions de dollars, comme indemnité des dépenses nécessitées par l'expédition de Simonosaki. ¶ Les Représentants des quatre Puissances susnommées, désireux de témoigner, auprès du Gouvernement japonais, des sentiments désintéressés de leurs Souverains et de leur unique désir d'améliorer leurs relations avec ce pays, laissèrent à Sa Majesté le Taïcoun la faculté de remplacer le payement de cette indemnité par l'ouverture d'un nouveau port au commerce étranger. ¶ Sommé par les représentants desdites Puissances d'avoir à déclarer s'il voulait ou non user de cette faculté, le Gouvernement japonais répondit, il y a six mois environ, qu'il préférait payer l'indemnité, attendu que l'état du pays lui faisait considérer comme impolitique l'ouverture d'un nouveau port; mais, en même temps, il demandait un délai d'une année pour opérer le deuxième versement de l'indemnité. ¶ Les Représentants des quatre Puissances, tout en reconnaissant au Gouvernement japonais le droit d'opter entre les deux conditions, ne se crurent pas autorisés à accorder le délai demandé, et durent en référer à leurs Gouvernements respectifs. ¶ Les instructions qu'ils ont demandées à ce sujet sont parvenues aux soussignés. ¶ Le droit du Taïcoun d'opter entre le payement de l'indemnité aux termes fixés par la Convention du 22 octobre, et l'ouverture d'un port dans la mer Intérieure, est naturellement reconnu par chacune desdites Puissances; mais elles diffèrent d'opinion au sujet du délai demandé par le Gouvernement japonais. ¶ Les Cabinets de Londres et de la Haye exigent ou l'exécution rigoureuse des articles de la Convention du 22 octobre à cet égard, ou consentent à ce délai, et même à l'abandon des deux tiers de l'indemnité aux trois conditions suivantes:

1° Que le Gouvernement japonais ouvre le port d'Hiogo et d'Osacca le 1er janvier 1866;

2° Que le Mikado ratifie les traités conclus avec les puissances étrangères.

Et 3° enfin que le tarif des droits d'entrée soit fixé, pour la plupart des produits, à 5 %, et ne puisse, en aucun cas, dépasser 10 %.

Le Cabinet de Paris ne verrait, au contraire, pas d'obstacle à accorder un délai au Gouvernement japonais, si ce dernier agissait de bonne foi à l'égard des Puissances signataires des traités; et il verrait un danger à lui imposer l'ouverture d'Osacca avant l'époque fixée par la Convention additionnelle de 1862. Le Cabinet de Paris déclare en outre formellement (ce qui est également admis par les Cabinets de Saint-James et de la Haye) que, le Taïcoun étant libre d'opter entre le payement de l'indemnité et l'ouverture d'un port, nous ne serions

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pas en droit, si ce prince exécutait l'une de ces conditions, d'exiger l'ouverture anticipée d'Hiogo et d'Osacca. ¶ Le Ministre de l'Empereur ajoute que, dans une dépêche adressée aux Cabinets de Londres, de la Haye et de Washington, en date du 22 juillet 1865, le Gouvernement impérial exprime l'avis que la solution de cette question soit remise aux Représentants des quatre Puissances au Japon. ¶ En réponse à cette communication, S. Exc. lord Cowley a fait connaître à S. Exc. M. Drouyn de Lhuys que le Gouvernement de Sa Majesté britannique consentait à cette dernière proposition. ¶ Le Représentant des États-Unis d'Amérique n'a pas reçu d'instructions de son Gouvernement. Mais les mesures arrêtées par le présent mémorandum n'étant que la conséquence de la politique qui a été inaugurée entre les quatre Puissances signataires des traités, M. Portman, chargé d'affaires *ad interim*, n'hésite pas, à cette occasion, à s'unir à ses collègues. ¶ M. de Graëff von Polsbrock a reçu des instructions identiques de son Gouvernement. ¶ En l'état: ¶ Les Représentants soussignés d'Angleterre, de France, des États-Unis d'Amérique et de Hollande ont jugé nécessaire de se réunir à l'effet de s'entendre: 1⁰ sur les moyens de concilier entre elles les instructions de leurs Gouvernements respectifs, tout en conservant intactes l'union et l'entente commune qui leur ont déjà donné tant de force, et 2⁰ sur la marche à suivre afin de tirer le meilleur parti possible de la situation actuelle. ¶ Après avoir examiné la question sous toutes ses faces; ¶ Considérant, d'un côté, que les propositions du Gouvernement de Sa Majesté Britannique relativement à l'abandon d'une partie de l'indemnité, en retour: 1⁰ de l'ouverture anticipée du port dé Hiogo et de la ville d'Osacca; 2⁰ de la ratification des traités par le Mikado, et 3⁰ de la révision du tarif des douanes, sont conformes à l'esprit de la Convention du 22 octobre 1864; ¶ Considérant, d'un autre côté, que le Gouvernement de S. M. l'Empereur ne s'écarte des propositions du Cabinet de Saint-James qu'en ce qu'elles auraient d'inopportun, vu l'état des partis au Japon; ¶ Considérant que les conditions réclamées par l'Angleterre et la Hollande, si elles étaient accordées spontanément par le Gouvernement japonais, n'offriraient plus les dangers que redoutèrait la France si ces conditions étaient *imposées*, et seraient préférables, pour les intéressées, au payement des deux tiers de l'indemnité, et que dès lors la France n'aurait plus d'objection à opposer à ce nouvel arrangement, qui, on le répète, est tout à fait conforme à l'esprit de la Convention du 22 octobre 1864; ¶ Considérant que l'intérêt bien entendu des Puissances signataires des traités et du Japon lui-même exige une prompte solution aux questions et que l'abandon des deux tiers de l'indemnité pourrait faciliter et hâter la ratification, qui est la meilleure garantie de l'avenir des bonnes relations des Puissances étrangères avec le Japon et que, du reste, le Gouvernement du Taïcoun s'est engagé formellement à obtenir du Mikado; ¶ Considérant que l'absence du Taïcoun et de ses principaux Ministres rend toute négociation à Yédo, sinon impossible, du moins illusoire; qu'il importe cependant d'affirmer notre droit d'obtenir en son temps l'exécution d'un engagement et d'une convention solennels et de convaincre le Gouvernement japonais ainsi que le Mikado et les Daïmios, que les Puissances étrangères sont irrévocablement décidées à exiger l'ouverture d'Hiogo et d'Osacca, à l'époque fixée

par les traités, s'ils ne l'obtiennent pas auparavant en vertu d'un consentement réciproque; ¶ Les Représentants soussignés sont convenus, d'un commun accord, de transporter momentanément à Osacca le siége des négociations. Cette mesure, qui est parfaitement conforme à l'esprit des traités puisque lesdits Représentants sont accrédités auprès de la personne du Taïcoun, aura en outre, aux yeux des amis et des ennemis de ce Prince une signification qui pourra particulièrement influer sur l'heureuse issue des événements qui se préparent. ¶ En effet, les soussignés ont été informés que le Taïcoun, cédant aux instances du Mikado et des Daïmios qui l'entourent, a consenti à recevoir le prince de Nagato à résipiscence, moyennant des conditions que ce Daïmio avait acceptées, il y a huit mois environ, du prince d'Owari, généralissime de l'armée taïcounale, mais qu'il n'a pas remplies sous divers prétextes. Or, le Taïcoun, se méfiant, avec raison, des dispositions réelles de son sujet, a fixé une époque (le 15 décembre) passé laquelle il considérera comme non avenues les conditions favorables qu'il a bien voulu accorder au Daïmio rebelle, et procédera immédiatement à son châtiment. ¶ L'arrivée à Osacca des Représentants des Puissances signataires des Traités, venant à ce moment décisif, suivis d'une force navale respectable, négocier amicalement avec les Ministres du Taïcoun, empêcherait, il y a lieu de le croire, le commencement des hostilités, qui seraient peut-être le signal de la guerre civile, dont les conséquences, quelles qu'elles fussent, ne pourraient que nuire aux intérêts politiques et commerciaux des Puissances étrangères au Japon. En tout cas, cette arrivée ne peut manquer de donner au Gouvernement du Taïcoun l'appui moral qui doit faciliter le résultat de ses démarches à l'effet d'obtenir du Mikado la ratification des traités. ¶ En conséquence, les soussignés sont convenus de s'adresser immédiatement aux Commandants des forces navales de leurs nations respectives, afin de leur faire connaître la situation politique, et de les inviter à les transporter à Osacca où ils séjourneront le temps nécessaire pour mener à bonne fin l'importante négociation qui les y appelle. ¶ Les soussignés prennent cette détermination avec la conviction intime qu'elle peut amener de très-heureux résultats, et qu'en aucun cas elle n'est de nature à compromettre la politique sage et conciliante que leurs gouvernements respectifs leur ont ordonné de suivre à l'égard du Japon. ¶ Fait en quadruple exemplaire à Yokohama, le 30 octobre 1865.

No. 2152. Frankreich, 31. Oct. 1865. [Vertragsmächte, 30. Oct. 1865.]

Léon Roches. Harry Parkes. Alf. Portman. Graëff von Polsbrock.

No. 2153.

FRANKREICH. — Ges. in Japan an den Kais. Min. d. Ausw. — Sanctionirung der Verträge mit den christlichen Mächten durch den Mikado. —

[Dépêche télégraphique.]

Yokohama, le 2 décembre 1865.

Le Mikado a sanctionné les traités conclus par le Taïcoun avec les Puissances chrétiennes. La malle de ce jour porte à Votre Excellence mes dépêches au sujet de cet événement. *Roches.*

No. 2153. Frankreich, 2. Dec. 1865.

TRAITÉ D'EXTRADITION ENTRE LA FRANCE ET L'ANGLETERRE.

Dénonciation du Traité d'extradition entre la France et l'Angleterre.

No. 2154.

FRANKREICH. — Min. d. Ausw. an den Kais. Botschafter in London. — Kündigung des Auslieferungsvertrages mit England und die Gründe derselben. —

Paris, le 29 novembre 1865.

No. 2154. Frankreich, 29. Nov. 1865.

Prince, j'ai eu l'honneur, aux mois de février et de mars derniers, de vous adresser diverses communications au sujet des insuccès réitérés qu'éprouvent nos demandes d'extradition avec la Grande-Bretagne, et ma dernière dépêche du 11 mars vous faisait pressentir et vous invitait même à ne point laisser ignorer au Cabinet de Londres que, si les améliorations que nous étions désireux d'apporter au régime créé par la Convention de 1843 étaient repoussées, nous nous verrions probablement dans l'obligation de dénoncer le Traité. ¶ Vous connaissez, Prince, les difficultés de toute nature contre lesquelles viennent constamment échouer nos demandes d'extradition. Je me bornerai à rappeler les deux principales. ¶ En premier lieu, le Gouvernement britannique refuse de nous livrer les condamnés, sur le motif que la Convention de 1843 ne mentionne que les accusés. ¶ Sans insister sur ce qu'il y a de contradictoire, à nos yeux, dans un système qui reconnaît la légitimité de l'extradition en ce qui concerne des individus sur lesquels pèse seulement une présomption de culpabilité, et qui la repousse en ce qui touche ceux qu'a légalement convaincus une sentence judiciaire, nous avons proposé une disposition aditionnelle au traité de 1843 pour comprendre les condamnés; mais notre offre a été déclinée par le cabinet de Londres, qui a craint de ne pouvoir faire accepter cette disposition par le Parlement. ¶ En second lieu, la Convention d'extradition telle que l'interprètent les avocats de la couronne et, par suite, l'administration britannique, se résumerait dans l'obligation d'aller, en quelque sorte, faire juger le procès en Angleterre, comme nous avons pu le constater une fois de plus par le refus qui a été récemment opposé à notre demande d'extradition concernant le nommé Teissier, l'un des pirates du *Fœderis-Arca*, qu'on supposait devoir aborder à Calcutta. L'avocat général du Gouvernement de l'Inde et les avocats de la couronne ont déclaré que, pour autoriser l'arrestation et le renvoi en France du fugitif, il aurait fallu joindre au mandat d'arrêt des copies des dépositions déjà reçues dans l'information et dont l'authenticité aurait été attestée par le serment de la personne qui les aurait exhibées, de telle sorte que le magistrat de police de Calcutta pût constater si le fugitif était, *prima facie,* coupable du crime pour lequel son extradition était réclamée. ¶ De telles exigences constituent un obstacle permanent au succès des demandes d'extradition et diffèrent de la pratique suivie par les autres puissances de l'Europe. L'extradition n'est point une mesure inventée dans l'intérêt spécial de tel ou tel État, c'est l'application la plus large du

principe de la répression pénale, au point de vue de l'ordre social, qui réunit, dans un but commun de protection et de garanties mutuelles, la grande famille des peuples civilisés. Elle a pour objet de restituer le coupable à son juge naturel, en le privant du bénéfice du droit d'asile, tel qu'il subsistait à l'époque où les peuples, placés les uns vis-à-vis des autres dans un état d'isolement hostile, demeuraient indifférents aux actes criminels accomplis en dehors de leur territoire. S'il en est ainsi, si l'extradition, ramenée à son véritable caractère, n'est, au fond, qu'une loi de procédure et de compétence internationales; si cette mesure, comme je le disais plus haut, n'est qu'un moyen de rendre le fugitif à son juge naturel, les États contractants, en pareille matière, ne doivent se demander réciproquement d'autres preuves que celles qui sont indispensables pour vérifier si les poursuites sont sérieuses, dirigées par le juge compétent et motivées par des crimes communs. Tout traité qui s'écarte de cette règle est sans utilité réelle et ne présente pas ce caractère de réciprocité essentielle dans les rapports internationaux. Vingt-deux ans d'expérience ont démontré l'inefficacité du Traité du 13 février 1843, ou plutôt l'anomalie d'une situation dans laquelle le contrat n'est exécuté que par l'une des parties, et qui ne saurait se prolonger sans inconvénient pour notre propre dignité. ¶ Dans cet état de choses, le Gouvernement de l'Empereur a dû sérieusement se préoccuper du soin de dégager sa responsabilité, en présence des facilités offertes aux malfaiteurs pour se réfugier à quelques heures de nos côtes et d'une impunité dont l'opinion publique est, jusqu'à un certain point, fondée à lui demander compte, tant que le Traité subsiste. ¶ En conséquence, vous voudrez bien, Prince, faire connaître, par une note officielle adressée au Principal Secrétaire d'État de Sa Majesté Britannique, qu'usant de la faculté écrite dans l'article 4 de la Convention du 13 février 1843, nous avons résolu de dénoncer le Traité, qui cessera de produire ses effets six mois après cette déclaration. ¶ Agréez, etc.

No. 2154. Frankreich, 29. Nov. 1865.

Drouyn de Lhuys.

No. 2155.

FRANKREICH. — Botschaft in London an den Kais. Min. d. Ausw. — Die Uebergabe der Französ. Kündigungsacte an den Kön. Grossbrit. ersten Staatssecretär betr. —

Londres, le 16 décembre 1865.

Monsieur le Ministre, aussitôt après avoir reçu la dépêche que Votre Excellence m'a fait l'honneur de m'écrire le 29 novembre, je me suis empressé, conformément à ses instructions, d'adresser au Principal Secrétaire d'État de la reine une note officielle pour lui faire connaître que, usant de la faculté inscrite dans l'article 4 de la Convention d'extradition du 13 février 1843, le Gouvernement de l'Empereur avait résolu de dénoncer le traité, qui doit, en conséquence, cesser de produire ses effets six mois après cette déclaration. J'ai l'honneur de vous transmettre, en copie, ma note du 4 décembre. Je l'aurais fait parvenir plus tôt à Votre Excellence, si je n'eusse espéré pouvoir y joindre l'accusé de

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réception du Foreign-Office; mais le comte de Clarendon, auquel j'ai récemment rappelé de vive voix cette affaire, et qui considère, d'ailleurs, le traité comme régulièrement dénoncé, m'a prié d'attendre encore quelque temps sa réponse, parce qu'il était dans l'obligation de la concerter avec le ministre de l'intérieur. ¶ Veuillez agréer, etc.

Prince *de la Tour-d'Auvergne.*

AFFAIRES COMMERCIALES.

SUÈDE ET NORVÉGE.

No. 2156.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Stockholm. — Den mit Schweden-Norwegen abgeschlossenen Vertrag vom 14. Febr. 1865 betr. —

Paris, le 31 mars 1865.

No. 2156. Frankreich, 31. März 1865.

Monsieur, les motifs qui nous ont amenés à conclure les Conventions du 14 février vous sont connus, et vous pouvez dès lors pressentir les résultats que nous en attendons. Depuis fort longtemps, le Gouvernement français était préoccupé de l'état d'infériorité de ses relations commerciales avec la presqu'île Scandinave. En effet, la somme totale de nos échanges ne représentait, pour 1860 et 1861, d'après les dernières estimations de l'Administration des Douanes, qu'une valeur de 54 et de 62 millions. Si l'on décompose ces chiffres, on est, en outre, frappé de la disproportion relative qu'offrent l'entrée et la sortie des marchandises. Ainsi, tandis que nous recevions, en 1860 et 1861, une valeur de 49 et 56 millions de bois expédiés de Suède et de Norvége, nous n'importions directement dans ces deux pays que pour 4 ou 6 millions de marchandises françaises. Cette disproportion explique la nature exceptionnelle des opérations de notre pavillon dans l'intercourse avec la péninsule Scandinave. Le nombre de navires français qui partent de nos ports sur lest atteint presque, chaque année, celui des bâtiments qui nous rapportent les bois des Royaumes-Unis. Le commerce et la navigation accusent donc également une même cause d'infériorité, l'insuffisance de nos exportations directes. Il est vrai, toutefois, que les états des Douanes ne relèvent pas toutes les marchandises françaises introduites en Suède et en Norvége, soit par la contrebande, soit par la voie de Hambourg ou de Lubeck; mais il n'en est pas moins évident que les frais de ce circuit ou les primes de la contrebande constituent des charges qui entravent, au même degré que les droits de douane, le développement de notre commerce. D'un autre côté, l'absence de fret à l'aller et la nécessité pour notre marine de trouver dans un seul voyage la rémunération d'une double opération d'intercourse diminuent ses bénéfices et ralentissent son essor. Le Gouvernement de l'Empereur s'est persuadé qu'il ferait en grande partie disparaître les causes qui relèguent le commerce français au dernier rang dans le relevé des importations de la Suède et de la Norvége, en obtenant une notable réduction des droits de douane afférents à

nos marchandises dans l'un comme l'autre des Royaumes-Unis. Nous nous sommes donc attachés à faire consacrer l'allégement des charges qui pèsent, en premier lieu, sur nos produits encombrants, tels que les vins, les eaux-de-vie, les denrées alimentaires, les porcelaines, et, ensuite, sur les articles spéciaux de notre industrie, tels que les tissus de toute espèce, les peaux préparées, les objets de parure, d'habillement, les livres, etc. Nous nous sommes efforcés, en un mot, de créer des éléments de fret à notre marine par le dégrèvement de toutes les marchandises destinées à former ou à compléter le chargement des navires qui vont chercher en Suède et en Norvége les bois de leurs forêts, ainsi que les fers de leurs usines. ¶ Porter les concessions obtenues à la connaissance du commerce des deux pays, l'éclairer sur la nature des marchandises qu'il a intérêt à importer ou à exporter, c'est la tâche qu'il nous reste à remplir pour faire produire aux traités les effets que nous espérons, et je compte sur le concours de la Légation de Stockholm pour atteindre ce but. J'appelle particulièrement, Monsieur, toute votre sollicitude sur les intérêts de notre marine: placée désormais dans des conditions d'égalité avec celle des Royaumes-Unis pour l'intercourse directe, elle est appelée à soutenir une redoutable concurrence; mais j'ai la confiance que les éléments de fret que nous lui avons procurés compenseront les avantages de la protection dont elle cessera de jouir, surtout si les armateurs français se décident à élever le tonnage des navires pour diminuer les frais généraux du transport, et à réaliser, par l'établissement de services à vapeur, ces conditions de promptitude et de régularité qui leur permettront d'enlever à Hambourg et à Lubeck le bénéfice des importations indirectes. ¶ Je n'ai pas besoin, Monsieur, de faire ressortir l'utilité des indications que vous êtes à même de recueillir sur les moyens d'approprier nos constructions maritimes aux besoins de ce trafic. Je vous saurai gré de me les transmettre par dépêches spéciales, sans attendre l'envoi de vos rapports d'ensemble sur le mouvement maritime et commercial de la Suède; je vous serai également obligé de me faire connaître les premiers résultats de la mise à exécution des traités, au fur et à mesure qu'ils se produiront. ¶ Indépendamment de cette étude attentive des faits, la Mission de Sa Majesté à Stockholm aura naturellement pour devoir de surveiller l'application du nouveau régime. Vous savez, Monsieur, qu'il repose sur le principe absolu de l'égalité dans les charges imposées aux marchandises des deux pays après l'acquittement des droits prévus par les tarifs, et de l'assimilation complète des Français et des nationaux pour tout ce qui concerne leur établissement dans les Royaumes et le libre exercice du commerce et de l'industrie. ¶ Enfin, Monsieur, la Légation voudra bien ne pas perdre de vue les engagements moraux que le Cabinet de Stockholm a contractés envers la France relativement à la garantie de la propriété de nos auteurs, ainsi que de nos manufacturiers, engagements qui se trouvent consignés dans la lettre de M. le comte de Manderstroom, insérée au procès-verbal de la quatrième Conférence. Il importera de saisir toutes les occasions de lui rappeler la promesse qu'il nous a faite de mettre le plus tôt possible sa législation, en matière de propriété littéraire et artistique, en harmonie avec celle de tous les autres États de l'Europe, et je vous saurai gré de me tenir au courant des progrès que cette question, qui

No. 2156. Frankreich, 31. März 1865. nous intéresse au plus haut point, pourra faire soit dans les Conseils du Gouvernement, soit au sein même des classes de la société qui dirigent les mouvements de l'opinion publique... ¶ Recevez, etc.

Drouyn de Lhuys.

ZOLLVEREIN.

No. 2157.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. und Consular-Agenten in Deutschland. — Das bevorstehende Inkrafttreten der Handels-, Schifffahrts- etc. Verträge mit den Zollvereinsstaaten betr. —

Paris, le 10 juin 1865.

No. 2157. Frankreich, 10. Juni 1865. Monsieur, les Traités de commerce et de navigation dont les Plénipotentiaires de la France et de la Prusse viennent d'échanger les ratifications à Berlin apportent de profondes modifications au régime qui présidait à nos rapports avec l'Allemagne. D'une part, ils étendent aux importations du Zollverein le bénéfice des réductions de tarif que nous avons successivement concédées à l'Angleterre, à la Belgique et à l'Italie; de l'autre, ils assurent à nos produits, sur les marchés allemands, la réciprocité d'un traitement libéral. En France, la réforme de notre législation douanière, dans son application au Zollverein, ne se présente point avec le caractère et les chances d'une innovation; c'est le développement d'une expérience consacrée par le succès. De l'autre côté du Rhin, quoique l'union des douanes ait été un premier pas dans la voie du progrès, la perspective d'une plus large participation du commerce étranger aux avantages d'un régime limité aux échanges intérieurs devait soulever tout d'abord de vives résistances dans ceux des États qui se croyaient moins préparés que la Prusse et la Saxe aux épreuves de la libre concurrence; mais une étude plus attentive de la question a calmé les inquiétudes et les méfiances irréfléchies qui avaient entravé et même compromis, pendant quelque temps, les négociations de Berlin. Les loyales et sincères discussions qui se sont engagées au sein des assemblées législatives de l'Allemagne, la lumière répandue par ces débats sur l'objet réel et les conséquences probables du pacte signé par la France et par la Prusse au nom du Zollverein, ont achevé de rassurer les esprits et les intérêts; dans les États mêmes où les dissidences s'étaient manifestées avec le plus d'éclat, un vote presque unanime a sanctionné les traités du 2 août, et ceux qui les repoussaient d'abord en attendent aujourd'hui, avec impatience, la mise en vigueur qui, comme vous le savez, Monsieur, est fixée au 1er juillet prochain. ¶ Quelques jours à peine nous séparent de cette date, et, au moment où vous recevrez cette dépêche, le commerce des deux Pays se sera déjà préparé à recueillir les avantages que leur promet le nouveau régime. Je n'ai pas besoin de vous recommander l'étude de ces premiers efforts: c'est surtout au début qu'elle présente un grand intérêt; mais vous ne devrez pas borner votre rôle à l'observation. Quoiqu'il faille compter avant tout sur l'esprit d'initiative qui anime nos négociants, vous aurez à faire profiter de votre expérience personnelle

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ceux d'entre eux dont l'activité se portera sur les marchés du pays où vous résidez. Un de vos premiers soins consistera, Monsieur, à leur indiquer les concessions stipulées en leur faveur et à leur en assurer la jouissance. Ce n'est pas que je doute qu'en Allemagne les Traités du 2 août ne reçoivent une exécution aussi libérale que celle qu'ils recevront en France; nous en avons pour garant l'esprit qui n'a pas cessé d'inspirer les Plénipotentiaires de la Prusse. Nous ne devons pas pourtant perdre de vue les conditions particulières où la haute Administration du Zollverein se trouve placée par suite de l'obligation de faire exécuter sur le territoire de vingt États différents les règlements élaborés à Berlin. Les erreurs, les divergences dans l'interprétation, ne peuvent être évitées que par la vigilance de l'autorité centrale et celle de nos propres Agents. Ils comprendront toutefois la nécessité d'apporter, dans l'exercice de ce contrôle, la prudence et les ménagements indiqués par sa nature même. Avant d'élever ou de soutenir des réclamations dont la légitimité ne leur paraîtrait pas incontestable, ils voudront bien les soumettre à mon département, qui s'empressera de leur faire connaître son appréciation; mais l'obligation d'y recourir se présentera plus rarement pour eux, s'ils se pénètrent, comme je n'en doute pas, des principes sur lesquels reposent les Traités du 2 août. ¶ Je vais, Monsieur, vous les rappeler brièvement. ¶ Une des bases essentielles de ces Traités, c'est l'engagement pris par les Parties contractantes de n'accorder à aucune autre puissance des avantages directs ou indirects, qui ne leur deviendraient pas aussitôt communs à elles-mêmes. Le régime le plus libéral à l'entrée, à la sortie, au transit, comme pour la mise en consommation, se trouve acquis aux produits français, à titre de réciprocité, sur tout le territoire du Zollverein. Toute taxe, tout mode de perception ayant un caractère différentiel disparaît donc de sa législation douanière et fiscale. A la frontière, nos marchandises seront traitées comme celles de l'État allemand ou autre le plus favorisé; à l'intérieur, elles n'acquitteront d'autres ni de plus lourdes taxes que les produits nationaux. Cette règle est générale et ne souffre pas d'exception. Spontanément admise, dès les premières conférences, par les négociateurs prussiens, elle a rencontré des opposants parmi ceux des membres de l'Association allemande qui voulaient maintenir des priviléges commerciaux fondés sur des considérations politiques. Ces prétentions étaient trop en désaccord avec les principes de notre nouveau droit conventionnel pour que le Gouvernement de l'Empereur ne les ait pas formellement repoussées, et avec le ferme et loyal concours du Cabinet de Berlin, il a réussi à les écarter. ¶ Vous avez remarqué, Monsieur, que la Prusse procède à la réforme de sa législation douanière par la voie que nous avons nous-mêmes suivie, c'est-à-dire par des arrangements internationaux et dans la forme diplomatique. Il en résulte que chaque traité intervenu depuis 1862 avec une Puissance tierce a modifié, du côté de la France comme du côté du Zollverein, les tarifs annexés aux Traités franco-prussiens. C'est ainsi que quelques-uns des droits stipulés au tarif B ont été déjà réduits par la Convention récemment conclue avec l'Autriche. De nouveaux changements surviendront sans doute encore à la suite des négociations que le Cabinet de Berlin poursuit avec d'autres États. Il importera donc de tenir un compte exact de ces modifications successives, qui sont applicables de plein droit aux

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produits français. ¶ Le mode de tarification au poids adopté par le Zollverein présente, dans la pratique, d'incontestables avantages; mais, s'il échappe aux difficultés inhérentes au système de perception des droits à la valeur, les catégories dans lesquelles se trouvent réparties toutes les marchandises importées sont trop étendues pour ne pas donner quelquefois prise aux classifications arbitraires des douanes locales. C'est un des points sur lesquels j'appelle particulièrement votre attention. ¶ J'aurais voulu vous annoncer, Monsieur, la suppression réciproque des certificats d'origine à l'entrée des marchandises dans les deux pays; mais, tout en se montrant favorable à cette mesure, le Gouvernement prussien n'a pas cru pouvoir l'adopter avant la conclusion des traités qu'il négocie avec les États voisins. Dans l'espoir que son exemple ne tardera pas à être suivi par le Zollverein, l'Administration française s'est décidée à ne plus exiger, à l'importation des produits allemands, l'accomplissement de formalités dont l'expérience lui a démontré le peu d'utilité et les réels inconvénients. L'immunité deviendra même générale à partir du 1er juillet prochain. Le Gouvernement de l'Empereur ne veut pas qu'un formalisme étroit et une réglementation minutieuse viennent faire obstacle à la libre expansion du mouvement commercial. ¶ Il ne suffirait pas de chercher à développer, par de mutuelles réductions de tarifs, l'échange des marchandises; il n'est pas moins utile d'en faciliter le transport: tel est le but de l'Arrangement relatif au service international des chemins de fer et de la Convention maritime qui forment le complément naturel de notre Traité de commerce. ¶ L'Arrangement qui règle le service des chemins de fer ne comporte pas d'explications spéciales. La Convention maritime donne lieu à quelques observations qui ne sont pas sans intérêt. ¶ En Allemagne, les surtaxes de pavillon qui frappaient les navires français et leurs cargaisons vont disparaître entièrement. Le traitement sera le même, quelle que soit la provenance. ¶ En France, notre législation maritime maintient encore certaines restrictions sur le pavillon étranger pour l'intercourse indirecte. Elle ne nous a donc pas permis d'appliquer dans tous les cas aux navires allemands et à leur chargement un régime aussi libéral que celui dont jouira notre marine dans les ports des États du Zollverein; mais vous n'ignorez pas, Monsieur, que cette législation est en ce moment l'objet d'une révision sérieuse qui doit en modifier les bases et les mettre en harmonie avec le caractère libéral de nos traités de commerce. En attendant qu'un vote législatif ait sanctionné les réformes que le Gouvernement de l'Empereur a jugées opportunes et salutaires, nous avons, par voie d'interprétation, étendu le régime spécialement réservé aux provenances directes à toutes les marchandises allemandes expédiées en transit à travers les Pays-Bas, la Belgique ou la Suisse, par chemins de fer, ou embarquées dans les ports des Villes Hanséatiques. Ainsi, les produits du sol ou de l'industrie des États de l'Association douanière pourront être introduits en France, sans être soumis à aucune surtaxe, par toutes les voies ferrées aboutissant à notre frontière de terre, comme par tous les navires français, prussiens, hanovriens, oldenbourgeois ou hanséatiques, qui les auront embarqués dans un port quelconque, soit du Zollverein, soit des Villes Libres. ¶ Une autre dérogation à notre législation maritime a été faite en faveur des navires du Zollverein. Ils pourront faire escale dans un ou plusieurs ports

étrangers intermédiaires, sans être déchus des avantages réservés à l'importation directe, alors même qu'ils y auraient débarqué une partie de leur cargaison. ¶ J'arrive maintenant, Monsieur, à celles des stipulations qui règlent les garanties accordées aux personnes et à la propriété intellectuelle ou industrielle des nationaux de chacun des pays dans l'autre. ¶ Une notable différence subsiste entre le régime des étrangers en France et celui des Français en Allemagne. Les étrangers obtiennent chez nous, en toute matière et à tous égards, la plénitude de l'assimilation aux nationaux. En Allemagne, les Traités que nous venons de conclure, tout en améliorant d'une manière sensible l'état de choses antérieur, n'assurent aux Français une assimilation complète que pour la propriété des œuvres d'esprit et d'art, et celle des marques ou dessins de fabrique. Sous ce dernier rapport, la protection accordée par la loi aux industriels mêmes du pays me paraît laisser beaucoup à désirer dans certaines parties de l'Allemagne. Je vous saurai gré de me faire connaître exactement l'étendue des droits que nos nationaux seront appelés à exercer dans le pays où vous résidez. ¶ En ce qui concerne les conditions auxquelles l'établissement commercial des sujets de l'Empereur est subordonné dans les divers États du Zollverein, ils n'obtiennent que la garantie du traitement de la nation la plus favorisée. Il importe, toutefois, de bien préciser ce que l'on doit entendre en Allemagne par le traitement de la nation la plus favorisée. C'est, dans chaque État faisant partie du Zollverein, le traitement assuré à la personne ou à la propriété du ressortissant de tout autre État appartenant également à l'Association douanière. Ainsi le Saxon, le Bavarois, ne doit pas être plus favorablement traité en Prusse, et le Prussien en Saxe ou en Bavière, que le Français dans les mêmes conditions. Je ne me dissimule pas que les garanties qui nous sont acquises en vertu de cette assimilation sont encore incomplètes, mais j'ai la confiance qu'un progrès dans le sens d'une législation plus libérale est à la veille de s'accomplir en Allemagne; et, grâce à la solidarité établie par les articles 25, 27 et 28 de notre Traité de commerce entre nos intérêts et ceux des ressortissants des autres États du Zollverein, le droit international profitera des améliorations introduites dans le régime intérieur de l'Association. ¶ Éclairer nos nationaux sur l'étendue des avantages qui leur sont garantis et les seconder dans leurs réclamations contre l'interprétation erronée que pourrait recevoir à leur préjudice un droit conventionnel nouveau pour ceux qui l'appliquent comme pour ceux qui sont appelés à en jouir, ce n'est là, Monsieur, qu'une partie de la tâche confiée à votre zèle au moment de la mise en vigueur des Traités de Berlin. Vous saurez, je n'en doute pas, la compléter par votre initiative, et vous associer à l'œuvre de la diplomatie en recherchant avec empressement les moyens de lui faire porter tous ses fruits. C'est surtout en frayant à notre commerce la voie des marchés étrangers et en suppléant aux connaissances qui lui font trop souvent défaut que les Agents du service extérieur peuvent lui prêter un concours particulièrement utile. Vous inspirant de cet ordre d'idées, Monsieur, vous aurez soin d'observer attentivement quels sont les produits qui peuvent trouver leur écoulement en Allemagne à la faveur des tarifications nouvelles, quelles qualités, quel conditionnement particulier peuvent en faciliter le placement. Vous étudierez les efforts, toujours si intelligents, que

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fait la concurrence anglaise pour s'assurer l'exploitation des marchés étrangers. Vous m'indiquerez quels sont les moyens de transport les plus économiques, les modes et usages de payement usités dans le ressort de votre arrondissement consulaire, enfin quelles sont les maisons dont l'honorabilité vous paraîtra le mieux établie. La mission des Agents de l'Empereur s'élève et grandit avec les intérêts qu'ils ont pour devoir de protéger. Je trouverais donc regrettable qu'une prudence excessive les fît hésiter à remplir le rôle, chaque jour plus important, qu'assigne à leur activité le développement des relations internationales. Ils comprendront eux-mêmes, j'en suis convaincu, que le concours plus direct et plus personnel qu'ils sont appelés à prêter à notre commerce d'exportation peut se concilier avec la réserve que leur impose le sentiment de leur responsabilité. ¶ Telles sont, Monsieur, les instructions générales dont je crois devoir accompagner l'envoi du texte de nos Traités ou Conventions du 2 août 1862, dont vous recevrez par une prochaine occasion des exemplaires. ¶ Agréez, etc.

Drouyn de Lhuys.

PAYS-BAS.

No. 2158.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. und Consular-Agenten in den Niederlanden und den Niederländischen Colonien. — Den mit den Niederlanden abgeschlossenen Handels- und Schifffahrtsvertrag betr. —

Paris, le 1er septembre 1865.

No. 2158. Frankreich, 1. Sept. 1865.

Monsieur, j'ai l'honneur de vous adresser le texte du Traité de commerce et de navigation entre la France et les Pays-Bas, signé à la Haye le 7 juillet de cette année, et dont les ratifications ont été échangées le 10 du mois dernier. ¶ Cet acte international fait participer la Hollande aux avantages de la réforme douanière que nous avons inaugurée en 1860 et du régime conventionnel qui en a été la conséquence. Il assure donc au commerce et au pavillon néerlandais le bénéfice des dispositions de tous les traités que nous avons successivement conclus, depuis plus de cinq ans, avec les divers États de l'Europe. ¶ Le traitement libéral dont jouissent, dans les ports des Pays-Bas, en vertu du tarif général, les navires et les marchandises de tous pays, laissait peu de marge à de nouveaux dégrèvements, en retour de nos concessions; aussi nous sommes-nous bornés à stipuler dans l'article 3 le maintien du régime actuel; l'objet principal de la négociation s'est trouvé dès lors limité, pour la France, à deux points: abaissement des droits de consommation prélevés sur nos vins, et suppression du régime différentiel auquel sont soumis les navires français et leurs cargaisons dans les colonies néerlandaises de la mer des Indes. ¶ Admis en franchise de douane à leur entrée aux Pays-Bas, nos produits viticoles étaient, vous le savez, Monsieur, grevés, au profit de l'État, d'un droit d'accise unique, et devaient, en outre, acquitter dans la plupart des communes des droits d'octroi variables suivant les localités. L'exagération des charges qui pesaient sur l'une des branches les plus

importantes de notre production nationale, jointe à la diversité des taxes dont elle était frappée, était le sujet des réclamations incessantes de notre commerce, dont le développement était entravé; le Traité les ramène toutes à un droit uniforme et relativement modéré. Nous avons tout lieu d'espérer que nos vins trouveront aux Pays-Bas, à la faveur de ce dégrèvement, un débouché dont l'importance nous est garantie par le chiffre actuel de la consommation, sous l'empire même du régime onéreux auquel ils étaient soumis. Je vous recommande, Monsieur, l'étude attentive de cette question, et je vous prie de me rendre compte, avec un soin particulier, des résultats que produira, dans son application, l'une des stipulations les plus essentielles, à nos yeux, du Traité que nous venons de conclure. ¶ Les principaux avantages du nouveau régime applicable à notre marine et à notre commerce, dans les possessions de Java et de Sumatra, consistent surtout dans l'assimilation du pavillon français au pavillon néerlandais; cette assimilation est complète; les droits différentiels de toute nature qui pesaient sur notre navigation sont entièrement abolis, sans distinction de provenance ou de destination. Quant aux marchandises, le Gouvernement des Pays-Bas n'a pas cru pouvoir se résoudre encore à supprimer les surtaxes qui, dans un intérêt de protection pour l'industrie de la Métropole, grèvent un certain nombre de produits d'origine étrangère. Toutefois il a consenti, sur notre demande, à introduire dans le nouveau tarif colonial qui s'élaborait en même temps que se négociait notre Traité, une série de réductions de droits en faveur des articles essentiels de l'importation française à Java, notamment des vins, des eaux-de-vie, de la bijouterie, de l'orfévrerie, des soieries, des tissus de laine, de la passementerie, des articles de mode, de la quincaillerie, de la verrerie, de la porcelaine, des chapeaux, savons, etc. Ces dégrèvements seront applicables, comme le tarif lui-même, à dater du 1er janvier 1866, et le maintien nous en est garanti par la mention qui en est faite à l'article 26 du Traité. ¶ Le Gouvernement de l'Empereur, de son côté, a cru devoir accorder aux Pays-Bas, par réciprocité, l'assimilation du pavillon hollandais au nôtre dans l'intercourse directe entre les ports de l'Empire et ceux des Indes orientales néerlandaises. C'est là, vous le remarquerez, Monsieur, une dérogation au principe que nous avons constamment maintenu jusqu'à présent, et en vertu duquel les Colonies s'étaient trouvées exclues des arrangements intervenues entre la France et la plupart des Puissances maritimes. Nous avons pensé, toutefois, que les conséquences de cette dérogation perdaient beaucoup de leur gravité depuis la réduction des surtaxes d'entrepôt, qui avait plus ou moins concentré dans les ports de Londres, Liverpool, Anvers et Amsterdam, le commerce des principales denrées exotiques. ¶ Les conditions si défavorables dans lesquelles notre commerce maritime avait à lutter, aux Indes néerlandaises, contre la concurrence du pavillon national, avaient successivement réduit nos transactions à un chiffre tout à fait insignifiant; nous sommes en droit de compter qu'elles reprendront une certaine activité à la faveur de ces améliorations. Des relations régulières et directes s'établiront vraisemblablement entre nos ports et ceux de la mer des Indes, et nos produits trouveront, sur ce vaste marché, un débouché qui leur avait jusqu'à présent fait défaut. Votre tâche consistera, Monsieur, à favoriser ce résultat en surveillant avec soin l'exécution

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de celles des clauses du Traité qui s'appliquent au régime colonial, en éclairant l'Administration française et nos négociants eux-mêmes sur la nature des expéditions qu'il conviendra de diriger sur les possessions hollandaises de Java et de Sumatra, en recherchant enfin les moyens d'assurer le développement de nos opérations dans ces parages. ¶ Recevez, etc.

Drouyn de Lhuys.

ESPAGNE.

No. 2159.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. und Consular-Agenten in Spanien. — Bemerkungen über die mit Spanien abgeschlossene Handelsconvention vom 18. Juni 1865. —

Paris, le 17 août 1865.

No. 2159. Frankreich, 17. Aug. 1865.

Monsieur, les négociations commerciales engagées entre la France et l'Espagne se sont heureusement terminées par la conclusion d'une Convention qui a été signée à Madrid le 18 juin dernier, et dont les ratifications ont été échangées dans la même ville le 22 juillet. J'ai l'honneur de vous adresser le texte de cet acte, qui est aujourd'hui en vigueur, par suite de sa promulgation dans l'un et l'autre pays, et je vous prie d'en surveiller l'exécution en ce qui vous concerne. J'ai, d'ailleurs, peu d'observations à ajouter à cette communication. ¶ Je ne veux, Monsieur, ni exagérer ni amoindrir l'importance du pacte qui, pour la première fois dans le cours de ce siècle, ouvre aux relations commerciales de la France et de l'Espagne la voie libérale que de fâcheuses restrictions leur ont trop long-temps fermée. ¶ Ni pour la portée des clauses qu'elle renferme, ni pour les résultats qu'elle doit produire, la Convention du 18 juin ne saurait être comparée aux traités que le Gouvernement de l'Empereur a successivement conclus avec la Grande Bretagne, la Belgique, l'Italie, les États d'Allemagne et la Suisse. Elle a toutefois, à divers points de vue, une valeur qui ne doit point se mesurer sur le nombre des articles qui la composent. Elle est la manifestation incontestable d'un changement fondamental dans le régime économique de l'Espagne, qui s'était montrée, jusqu'ici, systématiquement contraire aux traités de commerce. En dépit des obstacles que d'injustes préventions et des difficultés de diverse nature opposaient aux idées de progrès dont l'Administration espagnole s'est montrée depuis quelque temps animée, ce changement se poursuit, lentement sans doute, mais sans hésitation, et tend à associer de jour en jour plus étroitement la Péninsule au mouvement qui entraîne les grandes Puissances de l'Europe dans les voies fécondes de la liberté commerciale. ¶ Le nouvel arrangement donne ainsi une première satisfaction aux espérances qu'avait fait naître la Convention consulaire conclue, le 7 janvier 1861, entre la France et l'Espagne. Nous nous étions plu, en effet, à considérer cette Convention comme inaugurant un régime libéral dont l'application pourrait s'étendre, dans un avenir peu éloigné, aux échanges des deux pays. Le Gou-

vernement de l'Empereur se félicite d'avoir, autant qu'il dépendait de lui, hâté ce résultat, en apportant aux négociations l'esprit de conciliation le plus large. Il était convaincu, en effet, qu'en facilitant, par la modération de ses demandes, l'accord projeté, il trouverait, dans le développement des transactions qui en serait la conséquence, la compensation complète de sacrifices balancés déjà, dans une proportion notable, par une clause de la Convention dont je n'ai pas besoin de vous signaler l'importance. ¶ Cette clause est celle de l'article 1er, en vertu de laquelle les surtaxes de douane sont réciproquement supprimées à l'importation par terre. Précieuse pour notre commerce, qui voit disparaître les entraves que les tarifs différentiels opposaient au trafic international, cette stipulation sera accueillie avec une vive satisfaction des deux côtés des Pyrénées, comme le complément naturel et nécessaire de la jonction, accomplie il y a juste un an, des chemins de fer français et espagnols. ¶ Des réductions de tarif ont été, en outre, réciproquement consenties; elles sont indiquées dans les tarifs A et B, annexés à la Convention. On ne s'étonnera pas que, sur ce point, les concessions faites à l'Espagne dépassent celles que nous avons obtenues: d'une part, il était équitable de tenir compte au Gouvernement de Sa Majesté Catholique du sacrifice que lui impose, relativement à la France, la suppression des surtaxes par terre, qui avaient déjà presque complétement disparu de notre tarif général; d'un autre côté, la plupart des articles d'origine espagnole qui obtiennent le bénéfice des réductions de droits consistant en produits naturels destinés à l'alimentation ou à l'industrie, les intérêts de la consommation et de la fabrication en France profiteront largement des facilités nouvelles données à leur importation. ¶ La Convention du 18 juin n'ayant point modifié le régime de la navigation, les surtaxes de pavillon sur les marchandises introduites par mer ont été maintenues de part et d'autre. Ainsi, à l'importation dans les ports de l'Empire par navires espagnols ou étrangers, les marchandises inscrites au tarif B payeront, outre le droit conventionnel, une surtaxe représentant la différence qui ressort, au tarif général, entre le droit applicable aux arrivages sous pavillon français et celui qui frappe les arrivages sous pavillon étranger. ¶ Pour les huiles, par exemple, le droit à l'importation par navires français est le même qu'à l'entrée par terre, c'est-à-dire 3 francs, et, par bâtiments espagnols, 3 francs, plus 1 franc, montant de la surtaxe afférente au pavillon étranger. La navigation espagnole n'en profite pas moins des dégrèvements stipulés par la nouvelle Convention, puisque, pour ne parler que de l'article qui vient d'être mentionné, le droit du tarif général est, pour le pavillon étranger, de 7 francs au lieu de 4 francs. Le Gouvernement de l'Empereur n'a pas hésité, en effet, à s'inspirer, pour l'application du tarif conventionnel, de l'esprit libéral qui a présidé à la négociation plutôt que du droit rigoureux qui l'autorisait peut-être à continuer d'assujettir les importations, sous pavillon espagnol comme sous pavillon étranger, aux taxes de notre tarif général. ¶ Comme vous le remarquerez, Monsieur, la Convention ne s'applique pas aux possessions espagnoles d'outre-mer, dont les produits, y compris ceux des îles Canaries, demeureront soumis au droit commun. L'Algérie reste aussi placée en dehors des stipulations de cet acte. ¶ Nous avons, Monsieur, la confiance que les avantages que ne

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tardera pas à produire, pour les deux pays, l'application du nouveau régime conventionnel inauguré par le Traité du 18 juin, encourageront l'Administration espagnole à l'élargir encore bientôt. Comme vous le savez, les Cortès ont, par une loi votée dans leur dernière session, autorisé le Gouvernement de Sa Majesté Catholique à supprimer les surtaxes de pavillon pour toute marchandise de provenance européenne, à l'exception des produits de pêche, et à réduire les droits sur toutes les matières nécessaires à la construction des navires. Cette faculté, dont le Cabinet de Madrid sera sans doute disposé à faire un prompt usage, doit être le point de départ d'arrangements nouveaux, auxquels le Gouvernement de l'Empereur s'empressera de se prêter, heureux d'avoir ouvert la voie dans laquelle les autres nations européennes ne manqueront pas de le suivre. ¶ Je n'ai pas besoin de vous recommander, Monsieur, d'étudier avec soin les effets de la nouvelle Convention dans votre résidence et de me faire part de vos observations. ¶ Agréez, etc.

Drouyn de Lhuys.

CONFÉRENCE SANITAIRE INTERNATIONALE.

No. 2160.

FRANKREICH. — Min. d. Ausw. an die Kais. diplomat. Agenten im Auslande. — Vorschlag zum Zusammentreten einer Conferenz in Constantinopel behufs Berathung von Massregeln gegen die Cholera. —

Paris, le 13 octobre 1865.

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Monsieur, la récente invasion du choléra en Égypte, d'où cette maladie s'est répandue successivement dans plusieurs autres provinces de l'Empire ottoman, ainsi que dans quelques parties de l'Europe, a éveillé la sollicitude des divers Gouvernements sur les dangers que présente, pour la santé publique, l'insuffisance actuelle des barrières opposées au développement du fléau. Tous ces Gouvernements, aussi bien ceux des États qui ont été atteints que ceux dont les territoires, préservés jusqu'à ce jour, peuvent être plus tard menacés, comprennent qu'il est de leur devoir de ne négliger aucun moyen de prémunir les populations contre une calamité doublement redoutable par les maux qu'elle entraîne et par la perturbation qu'elle jette dans les relations internationales. ¶ Aussi chaque Puissance a-t-elle adopté, soit spontanément, soit afin de satisfaire au vœu pressant de l'opinion publique, les dispositions qui lui ont paru les plus efficaces pour défendre son territoire contre l'invasion de la maladie; mais l'expérience a démontré combien ces mesures préventives, prises isolément et variant selon les localités, sont difficiles à concilier avec les habitudes et les besoins de notre époque, impatiente de toute entrave qui gêne la liberté des transactions commerciales. ¶ Frappé des inconvénients de cette situation, le Gouvernement de l'Empereur s'est demandé si, en même temps qu'on s'efforce d'arrêter le mal dans son cours, on ne devrait pas s'appliquer surtout à l'attaquer dans sa source en le combattant énergiquement aux lieux mêmes où il prend naissance, à l'aide d'un système de mesures concerté avec les autorités territo-

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riales. ¶ Pour atteindre ce but, il a pensé qu'il était urgent d'établir une entente préalable entre les Puissances intéressées, et de provoquer, à cet effet, la réunion d'une Conférence au sein de laquelle siégeraient, à côté des délégués des différents États, les hommes de la science jugés les plus aptes à éclairer ses délibérations par leurs lumières spéciales. ¶ Cette Conférence aurait pour objet de rechercher les causes primordiales du choléra, d'en déterminer les points de départ principaux, d'en étudier les caractères et la marche; enfin elle aurait à proposer les moyens pratiques de le circonscrire et de l'étouffer à son origine. Nous n'avons pas, du reste, la prétention de tracer d'avance le programme de ses travaux; nous devons en laisser le soin aux membres distingués qui seront appelés à en faire partie, et qui recevront certainement des instructions assez larges pour que leurs études puissent embrasser toutes les questions qu'il importe d'approfondir et de résoudre. Mais ce qui demeure bien entendu dès à présent, c'est que la Conférence, tout en conservant la plus grande liberté dans ses appréciations, n'aura à intervenir dans aucun acte d'administration intérieure, ni à prendre l'initiative d'aucune proposition qui soit de nature à gêner le libre exercice de la souveraineté territoriale. Les mesures dont elle conseillerait l'adoption ne sauraient être mises en pratique sur le territoire de chaque État, autrement que par l'autorité indépendante de cet État même. ¶ En raison de leur situation géographique, les contrées du Levant sont les premières atteintes par le fléau: les Gouvernements orientaux sont donc particulièrement intéressés aux améliorations qu'il s'agit d'introduire, pour le bien général, dans l'organisation du service sanitaire, et nous pouvons compter avec confiance sur leur coopération à des mesures dont leurs sujets seront les premiers à ressentir les effets bienfaisants. ¶ On ne doit pas oublier que c'est grâce au concours persévérant de la Porte, aux perfectionnements successifs qu'elle a introduits dans l'administration de la santé publique, que le problème de la suppression de la peste a été heureusement résolu: c'est donc auprès de la Turquie que la Conférence pourra trouver l'assistance la plus efficace pour ses travaux; c'est avec son aide qu'elle recueillera les meilleurs éléments de solutions pratiques. Ces considérations, dont la valeur sera, je n'en doute pas, appréciée par le Cabinet de......, me paraissent indiquer tout naturellement la ville de Constantinople comme siége de la Conférence. Mis en contact plus immédiat, dans cette capitale de l'Empire ottoman, avec les provinces où l'épidémie a ses principaux foyers, les représentants des Puissances étrangères trouveront, auprès du Conseil supérieur de santé qui fonctionne sous la haute direction de la Porte, de précieux renseignements. Ces conditions si favorables y rendront plus facile que partout ailleurs l'accomplissement de l'importante mission au succès de laquelle l'Administration du Sultan tiendra à honneur de contribuer. ¶ Je vous prie, Monsieur, de vouloir bien faire part de ces vues au Cabinet de..... Nous apprendrions avec une vive satisfaction qu'il y donnât son assentiment. Dans le cas où, comme nous nous plaisons à l'espérer, l'adhésion des diverses Puissances permettrait de réunir dans un bref délai la Conférence, je vous ferais connaître le choix de nos délégués. ¶ Vous trouverez ci-annexé un exemplaire du Rapport que, conjointement avec Son Exc. M. le Ministre de l'agriculture, du commerce et des travaux publics, j'ai eu l'honneur

No. 2160. Frankreich, 13. Oct. 1865. de présenter sur ce sujet à l'Empereur, qui a bien voulu en approuver les conclusions. Ce document n'est pas destiné à être communiqué au Gouvernement auprès duquel vous êtes accrédité, mais vous pourrez y puiser les arguments qui justifient les vues exposées dans cette dépêche. ¶ Agréez, etc.

Drouyn de Lhuys.

ÉTATS-UNIS.

En ajournant la publication des papiers relatifs au Mexique, l'intention du Gouvernement de l'Empereur avait été de différer également celle de la correspondance des États-Unis qui se rapporte à cette question. Mais il ne croit pas devoir retarder davantage la communication de cette correspondance, par suite de la publicité donnée en Amérique aux Documents présentés au Congrès.

CORRESPONDANCE RELATIVE AUX AFFAIRES DU MEXIQUE.

No. 2161.

FRANKREICH. — Min. d. Ausw. an den Kais. Geschäftstr. in Washington. — Bericht über eine Unterredung mit dem Geschäftstr. der Verein. St. in Paris, betr. die Stellung Frankreichs zu dem Nordam. Kriege einerseits und die Absichten der Unionsregierung in Bezug auf Mexico anderseits. —

Paris, le 23 mars 1865.

No. 2161. Frankreich, 23. März 1865. Monsieur, M. le Chargé d'Affaires des États-Unis s'est acquitté de la communication que vous m'aviez fait pressentir. Sans y être, m'a-t-il dit, formellement invité par son Gouvernement, M. Bigelow m'a donné lecture d'une dépêche de M. Seward, dont je reproduis ici les traits essentiels. Le peuple des États-Unis, dit M. le Secrétaire d'État, n'a aujourd'hui qu'une pensée, dont aucune considération ne saurait le distraire, la reconstitution de l'Union. Pour y parvenir, il est résolu à s'imposer tous les sacrifices, à ne reculer devant aucun obstacle, et à triompher de toutes les résistances. Il désire que la crise qu'il traverse n'affecte pas ses relations avec les États étrangers; mais ses sentiments à leur égard s'inspirent avant tout les dispositions dont il les suppose animés envers lui dans les conjonctures actuelles. Sympathique à ceux qu'il croit favorables au but qu'il veut atteindre, il est, par l'effet naturel de la lutte qu'il soutient, porté à ressentir une vive irritation contre ceux qui encouragent ses adversaires, ou qui appellent de leurs vœux un résultat contraire à celui qu'il poursuit au prix de tant de sacrifices. Or l'opinion s'est accréditée aux États-Unis, à tort ou à raison, que le Gouvernement français considérait la séparation définitive de l'Union américaine en deux confédérations distinctes comme la conséquence la plus désirable de la guerre actuelle. Dans l'état des esprits en Amérique, cette opinion sur les tendances du Gouvernement français devait altérer les sentiments d'amitié que l'on y entretenait de vieille date pour la France, et aigrir les rapports entre les deux pays. Le Gouvernement fédéral, moins accessible sans doute aux impressions populaires, mais tenu cependant d'y avoir égard, serait heureux de voir

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le Cabinet français saisir une occasion pour témoigner de ses sentiments envers l'Union américaine; une manifestation de cette nature l'aiderait à diriger ou à redresser l'opinion et à l'empêcher de s'égarer dans des préventions irréfléchies. ¶ J'ai dit à M. le Chargé d'Affaires des États-Unis que nous pourrions nous dispenser de répondre à des suppositions que, selon nous, rien ne justifie, et auxquelles nous avons la conscience de n'avoir fourni aucun prétexte. J'ai ajouté cependant que je n'éprouvais aucun embarras à entrer avec le Gouvernement fédéral dans de franches explications sur l'attitude observée par nous depuis l'origine de la crise américaine, et à manifester une fois de plus notre désir de ne laisser subsister entre nous ni malentendu, ni équivoque. La France n'a pas à rappeler le rôle qu'elle a joué à l'époque de la fondation de la grande République américaine. Restée fidèle depuis à ses sympathies, elle a vue avec plaisir, par le développement sans cesse croissant des relations commerciales des deux pays, ses intérêts d'accord avec ses sentiments. C'est dire qu'elle n'a pu envisager sans un sincère regret le conflit redoutable qui mettait en péril un État dont elle a toujours souhaité la prospérité et la grandeur. Il est superflu d'indiquer que nous sommes restés absolument étrangers aux circonstances tout intérieures qui ont amené dans le sein de l'Union la scission du Nord et du Sud; mais nous pouvons rappeler que nous n'avons cessé de déplorer les événements qui en ont été la conséquence, que nous nous en sommes exprimés, en toute circonstance, de la manière la plus explicite, nous déclarant même tout prêts à interposer nos bons offices, s'ils étaient, à un jour donné, jugés utiles au succès d'une tentative de conciliation. ¶ Les faits cependant s'imposaient à tout le monde avec une autorité indiscutable. La guerre éclatait, embrassant de vastes territoires, entre deux fractions de l'Union qui ont pu depuis quatre ans se faire équilibre, soutenues par de grandes armées régulières obéissant à des gouvernements constitués. Il était impossible aux Puissances étrangères de ne pas reconnaître aux parties engagées dans un pareil conflit tous les caractères assignés par le droit des gens à des forces belligérantes. ¶ Le Gouvernement de l'Empereur ne pouvait hésiter dès lors à proclamer le devoir qui en résultait pour lui d'une stricte neutralité. Obligé de tenir compte des faits, il s'est abstenu néanmoins de toute résolution tendant à préjuger l'issue d'une lutte remise au sort des armes et à la volonté de Dieu. Il ne lui appartenait pas de dire, sans intervenir dans des affaires qui ne concernent que le peuple des États-Unis, sur quelles bases pouvait s'effectuer la réconciliation, objet de nos vœux constants. En évitant de laisser pressentir à cet égard aucune opinion, il a maintenu sans altération, avec le Gouvernement fédéral, ses relations diplomatiques, tandis qu'il s'abstenait de tous rapports officiels avec le pouvoir existant à Richmond. Dans ses actes, le Gouvernement de l'Empereur s'est donc conformé à la stricte et loyale observation de ses déclarations de neutralité, en conservant à son attitude envers l'Union un caractère amical. ¶ Nous ne doutons pas que le bon sens du peuple américain, se dégageant des passions de la lutte qu'il soutient, ne rende justice à nos intentions et à notre conduite à son égard. Ce serait, autant qu'il dépend de lui, le devoir de son gouvernement de l'éclairer, si son jugement venait à s'égarer. Nous avons, nous aussi, à nous défendre contre de fausses impressions, et à prémunir l'opinion

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contre des suggestions mal fondées. Tandis qu'aux États-Unis on représente la France comme appelant de ses vœux la dislocation de l'Union, on répète en Europe que les États-Unis n'attendent que la fin de la guerre pour se jeter sur le Mexique et pour renverser un drapeau dont le voisinage accidentel devrait, ce nous semble, inspirer d'autres sentiments à ceux qui défendent aujourd'hui l'œuvre des fondateurs de la République américaine. Nous repoussons ces suppositions; nous attendons de la part du cabinet de Washington une complète réciprocité de procédés amicaux, et une égale observation des règles de la neutralité. Nous avons accueilli avec satisfaction les assurances qui vous ont été données à cet égard par M. Seward. L'intelligence élevée de cet homme d'État le défend, nous n'en doutons pas, contre les préventions ou les préjugés que les événements survenus au Mexique ont pu éveiller dans quelques esprits. Nous avons la confiance que ces fausses impressions s'effaceront devant une appréciation plus saine et plus calme des véritables intérêts du peuple américain. ¶ Amenés au Mexique par des griefs trop légitimes, nous n'y sommes venus que pour en obtenir le redressement, et en désavouant à l'avance, comme nous l'avons fait depuis en toute occasion, toute arrière-pensée d'établissement ou d'acquisition territoriale. Notre intervention a permis à ce pays de se reconstituer dans des conditions qui lui ont paru plus favorables que les régimes antérieurs au développement de sa vie sociale et de sa prospérité. Il n'y a rien là dont nous puissions supposer que les États-Unis aient raison de s'alarmer. Aussi nous refusons-nous à croire aux projets qu'on leur prête. A l'issue, quelle qu'elle soit, de la lutte actuelle, les États de l'Amérique du Nord auront, selon nous, dans la réparation des maux de la guerre, le meilleur emploi de leurs forces et de leurs ressources rendues disponibles. Nous n'admettons pas qu'ils songent à les engager dans une guerre dispendieuse, injuste, contre un pays qui ne leur a donné aucun sujet de plainte, dans une guerre enfin (nous devons le dire sans qu'il nous convienne d'y insister davantage) où, par le fait des circonstances, les États-Unis rencontreraient pour adversaire une Puissance, leur ancienne alliée. Nous écartons donc ces hypothèses que notre raison réprouve. Nous espérons que les dispositions du Cabinet de Washington à l'égard du Gouvernement mexicain confirmeront de plus en plus la confiance que nous mettons dans sa sagesse; neutres nous-mêmes dans la lutte politique et militaire qui se poursuit aux États-Unis, nous comptons sur sa neutralité dans l'œuvre à laquelle nous sommes associés au Mexique; de même que nous nous prêterons volontiers à éclaircir les doutes qui pourraient exister, malgré nous, en Amérique, sur les sentiments dont nous sommes animés envers les États-Unis, nous verrons avec plaisir le Gouvernement fédéral nous fournir l'occasion d'éclairer l'opinion en Europe sur les intentions que lui supposent des esprits prévenus. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2162.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Bericht über eine weitere Unterredung mit dem Geschäftstr. der Verein. St. in Paris in Betreff der beiderseitigen Stellung zu Mexico. —

Paris, le 2 mai 1865.

No. 2162. Frankreich, 2. Mai 1865.

Monsieur le Marquis, M. le Ministre des États-Unis, dans une conversation que j'ai eue avec lui ces jours derniers, m'a entretenu des dispositions de son Gouvernement à l'égard du Mexique, et a bien voulu me lire à ce sujet plusieurs passages des dépêches qui lui étaient adressées par M. le Secrétaire d'État Seward. ¶ M. Bigelow m'a dit que le peuple des États-Unis, sincèrement attaché aux institutions républicaines et les regardant, d'après l'expérience qu'il en a faite, comme les plus propres à assurer la prospérité et la grandeur d'une nation, n'avait pu envisager avec faveur l'établissement du système monarchique chez ses voisins. Le Cabinet de Washington devait suivre l'opinion du pays; cependant il comprenait que des conditions particulières de race, de climat, de situation géographique, certaines habitudes du passé et des souvenirs traditionnels pussent porter un autre peuple à préférer pour lui-même un régime différent de celui qui était jugé le meilleur aux États-Unis. Il faut bien reconnaître, a ajouté M. Bigelow, que l'épreuve des institutions démocratiques et républicaines, fait depuis près d'un demi-siècle au Mexique, est loin d'être favorable, et qu'elle a causé à cet infortuné pays plus de maux qu'elle ne lui a procuré de biens. Le Gouvernement des États-Unis n'a donc pas l'intention de s'opposer à ce que l'expérience nouvelle tentée en ce moment s'accomplisse en pleine liberté. Rien ne serait aussi contraire à ses principes que d'empêcher une nation voisine de choisir à son gré telle ou telle forme de Gouvernement. Résolu d'observer, à l'égard de tout ce qui se passera au Mexique, une scrupuleuse et impartiale neutralité, il a la confiance que cette attitude préviendra toute difficulté entre lui et nous. Les inquiétudes que notre intervention a fait concevoir à l'opinion américaine étaient nées de la crainte de voir inaugurer par nous tout un système de propagande monarchique dans le Nouveau-Monde; elles étaient excitées aussi par l'idée que, dans la crise redoutable qui déchirait les États-Unis, nous entretenions des dispositions hostiles envers le Cabinet de Washington. Le Gouvernement fédéral ne se laissera point entraîner par ces préventions, et tant que l'honneur et les intérêts de la République ne seront pas lésés, il ne déviera pas de la ligne de conduite qu'il s'est tracée. ¶ Jai remercié M. le Ministre dss États-Unis des assurances qu'il ma données au nom de son Gouvernement, et, en le félicitant des sages dispositions dont il m'apportait le témoignage, j'ai pris acte de ses déclarations. Je lui ai rappelé que notre expédition au Mexique avait eu pour cause unique la nécessité de soutenir les justes réclamations de nos nationaux, réclamations auxquelles le Gouvernement, alors installé à Mexico, n'avait ni la volonté ni le pouvoir de faire droit. Ce Gouvernement, sans racines dans le pays, bien que le brigandage qui sévit dans quelques provinces paraisse soutenir encore son drapeau, est tombé à notre approche. Nous avons facilité par notre concours la consoli-

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dation d'un nouveau régime qui, en travaillant consciencieusement à la réorganisation politique de ces riches contrées, semble promettre aux intérêts que nous allions défendre la protection à laquelle ils ont droit, et au pays tout entier une ère de paix et de sécurité depuis longtemps inconnue. Mais il n'y a eu dans notre conduite, à cette occasion, ni système absolu de restauration monarchique, ni dessein d'implanter en Amérique une forme de gouvernement de préférence à une autre, ni surtout la moindre velléité de conquête ou de propagande. A l'égard des États-Unis, pendant l'épreuve douloureuse qu'ils traversent depuis quatre ans, nous sommes restés toujours fidéles aux devoirs d'une exacte neutralité, et nous avons fait entendre nos vœux pour le rétablissement de la paix au sein d'une grande nation que rattachent à nous des sympathies séculaires. Les difficultés de détail qui, à plusieurs reprises, se sont élevées malgré la scrupuleuse impartialité de notre conduite, montrent assez combien, dans de pareilles circonstances, avec la volonté la plus loyale, on est exposé, dans la pratique, à paraître dévier parfois de la neutralité qu'on s'est promis d'observer. Nous nous plaisons donc à espérer, ai-je dit à M. Bigelow, que le Gouvernement des États-Unis, en face de l'ordre de choses régulier qui se fonde au Mexique et paraît devoir assurer aux instincts sagement libéraux de la nation une satisfaction légitime, sera amené peu à peu à établir avec le nouveau Gouvernement de ce pays des relations franchement amicales. Les intérêts commerciaux appellent, d'ailleurs, entre les deux peuples un rapprochement qui, nous le souhaitons, ne tardera pas à s'accomplir également dans le domaine de la politique. ¶ Telle est, Monsieur le Marquis, la substance de la réponse que j'ai faite aux communications de M. Bigelow. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2163.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die Anwerbungen für Juarez in den Unionsstaaten betr. —

Paris, le 30 mai 1865.

No. 2163. Frankreich, 30. Mai 1865.

Monsieur le Marquis, j'ai vu avec plaisir les assurances que M. le Président des États-Unis vous a données de son désir personnel de conserver avec nous les meilleures relations. Je me plais à penser que nous trouverons la preuve de ces sentiments si conformes aux nôtres dans les mesures que le Gouvernement fédéral prendra pour arrêter les enrôlements annoncés pour le compte de Juarez et pour décourager toutes les tentatives de ce genre. ¶ Revecez, etc.

Drouyn de Lhuys.

No. 2164.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Bericht über eine Unterredung mit dem Geschäftstr. der Vereinigt. St. in Paris betr. die Beziehungen zu Mexico. —

Paris, le 1er juin 1865.

No. 2164. Frankreich, 1. Juni 1865.

Monsieur le Marquis, durant le cours de l'entretien que j'ai eu avec M. Bigelow au sujet de la levée des mesures restrictives résultant de notre neutralité,

j'ai rappelé à M. le Ministre des États-Unis que nous étions fondés à compter sur la vigilance et sur la fermeté de son Gouvernement pour prévenir ou réprimer tous les actes qui pourraient, à propos du Mexique, altérer la cordialité de nos rapports. Je lui ai également parlé de la réception qui vous a été faite par M. le Président Johnson. J'ai répété, ainsi que je vous le mandais le 30 du mois dernier, que nous avions accueilli avec plaisir les assurances qui vous ont été données par le Président des dispositions amicales du peuple des États-Unis à notre égard et des intentions de son Gouvernement d'en conserver la tradition. J'ai ajouté que le discours que vous a adressé M. Johnson appelait cependant de ma part une observation. Je ne pouvais, en effet, me dispenser d'exprimer quelque étonnement de voir le Président inaugurer les rapports de son Gouvernement avec le Représentant de celui de l'Empereur en indiquant la préoccupation d'événements qui seraient de nature à les troubler. Ce soin de prévoir „en dehors de toute prévision ordinaire des éventualités tout à fait invraisemblables" qui pourraient compromettre les bonnes relations que l'on déclare avoir à cœur d'entretenir, ne me paraissait pas le meilleur moyen d'en assurer la durée. Je ne pouvais donc que regretter l'expression de cette prévoyance excessive, dans la circonstance surtout où elle avait trouvé place. Cette partie du discours de M. le Président Johnson s'adresse sans doute, ainsi que vous le faites remarquer, à une portion du public américain, et a été inspirée par le désir de ménager certaines susceptibilités nationales. Je le comprends ainsi; mais il ne faut pas oublier, et j'ai dû le dire à M. Bigelow, que le peuple français aussi a ses susceptibilités non moins respectables, et qu'il importe également de ne pas blesser. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2165.

VEREINIGTE STAATEN von AMERIKA. — Ges. in Paris an den Kais. Französ. Min. d. Ausw. — Berichtigung einer Erklärung des Kais. Staatsministers Rouher im Gesetzgeb. Körper und einer Mittheilung des „Moniteur universel" in Betr. der Stellung der Unionsregierung zu Mexico, resp. zu den Neutralen. —

Paris, le 12 juin 1865.

Monsieur le Ministre, je trouve dans le compte rendu officiel d'un discours prononcé, le 9 de ce mois, par S. Exc. le Ministre d'État, une déclaration erronée que je m'empresse de signaler à Votre Excellence, afin de prévenir tout malentendu qui pourrait surgir entre nous. ¶ Après avoir parlé des déclarations faites à Boston par le général Rosencrantz au sujet du prétendu recrutement de soldats américains pour l'armée mexicaine, M. Rouher aurait ajouté, d'après le compte rendu précité:

„Pendant que ces déclarations se faisaient à Washington et à New York, elles recevaient ici leur sanction et leur consécration formelle; le Ministre des États-Unis se présentait à notre Ministre des Affaires étrangères et lui disait: Sans doute, nous ne voyons pas d'un œil favorable une monarchie s'établir au Mexique, sans doute, nous préférons les formes républicaines, mais nous re-

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spectons la volonté des peuples et des nations; *nous comprenons que le Mexique, qui a été longtemps régi par la forme monarchique, veuille revenir à cet état de choses; et nous n'irons pas faire la guerre pour une question de forme de Gouvernement.*"

M. Rouher a probablement mal compris Votre Excellence, car je suis persuadé que vous n'avez jamais pu vous tromper sur le sens de mes paroles, au point de me faire dire que le peuple des États-Unis comprenait que le Mexique, après avoir été si longtemps soumis à une forme monarchique de Gouvernement, pût désirer y revenir. La déclaration de ma part qui a pu induire en erreur M. le ministre d'État est celle que je résumerais ainsi: Je disais que, maintenant que l'expérience a été commencée, les Américains désirent la voir compléter dans des circonstances de nature à faire connaître, définitivement et pour toujours, si un système de gouvernement européen est celui qui convient le mieux au peuple du Mexique. S'il devenait évident qu'il en est ainsi, et que la tranquillité publique fût rétablie, aucune nation ne serait plus intéressée à un pareil résultat que les voisins immédiats. J'ai ajouté que le succès des institutions républicaines dans l'Amérique espagnole n'avait pas été tel qu'il pût nous encourager à tenter de les y propager autrement que par notre exemple, et qu'enfin un Gouvernement quelconque qui serait acceptable pour les Mexicains nous satisferait. Je m'en rapporte à la mémoire de Votre Excellence pour confirmer mon assertion que jamais je ne vous ai exprimé une opinion ou une impression impliquant que le peuple mexicain désirât un gouvernement monarchique. En disant que le succès des institutions républicaines dans l'Amérique espagnole n'était pas de nature à justifier de notre part une propagande armée en faveur de ces institutions, je n'ai pas voulu dire que les Mexicains eux-mêmes fussent mécontents de la forme de gouvernement sous laquelle ils avaient vécu antérieurement à l'occupation de leur capitale par les troupes françaises. ¶ Je prie Votre Excellence de vouloir bien prendre les mesures qu'elle jugera convenables pour rectifier l'erreur dans laquelle il semble que M. le Ministre d'État, en même temps que ceux qui auront entendu ou lu ses paroles, soient tombés. ¶ Je désire saisir la même occasion pour rectifier une autre erreur qui a été accréditée par sa publication dans le journal officiel. ¶ *Le Moniteur* du 10 de ce mois, parlant de la neutralité de la France entre les États-Unis et les ex-insurgés dans les États à esclaves, dit:

„La situation étant aujourd'hui changée, et le Gouvernement fédéral ayant fait connaître son intention de ne plus exercer à l'égard des neutres les droits qui résultaient pour lui de l'état de guerre, le Gouvernement de l'Empereur n'a pas cru devoir plus longtemps reconnaître de belligérants dans les États-Unis d'Amérique."

Je présume qu'il s'agit ici de la communication que j'ai eu l'honneur de vous soumettre le 29 du mois dernier*), et dont les extraits sont cités par Votre Excellence, dans une communication qu'elle m'a ultérieurement adressée pour m'annoncer que les droits de belligérants étaient retirés aux insurgés. En sup-

*) No. 2117.

No. 2165. Vereinigte Staaten, 12. Juni 1865.

posant que c'est sur ce fondement que serait basée l'allégation du *Moniteur* que je viens de reproduire, je sens qu'il est de mon devoir de déclarer que, jusqu'à présent, le Gouvernement fédéral des États-Unis n'a renoncé à aucun des droits qui lui appartenaient comme belligérant. Il a cessé d'exercer ces droits, à ce que je présume; mais je ne sache pas qu'il y ait renoncé. ¶ La communication que j'ai faite à Votre Excellence, le 29 du mois dernier, était une réponse à sa déclaration antérieure, par laquelle elle m'informait qu'une renonciation de notre part au droit de belligérant de visiter et de capturer les navires neutres serait exigée comme condition préalable du retrait par la France des droits de belligérants des insurgés américains. ¶ En signalant les inconvénients qui résulteraient de ce que l'une de ces mesures dépendrait de l'autre, j'ajoutais que „les États-Unis, en demandant que la déclaration de juin 1861 fût retirée, ont abandonné tous les droits de belligérants auxquels ils sont présumés avoir prétendu, et sont devenus directement responsables de tout acte qu'ils pourraient commettre à titre de belligérant. Si ce Gouvernement, la déclaration impériale étant retirée, visitait un bâtiment neutre, il s'exposerait aussitôt à des représailles, de même que pour toute autre violation des égards prescrits par la loi internationale.“ Cela voulait dire que nous abandonnions tous les droits de belligérant, dont, d'après la théorie de Votre Excellence, nous ne faisions que jouir en commun avec les insurgés, et que nous serions responsables, d'après la même théorie, de tout ce que nous pourrions faire en notre qualité spéciale de belligérant. ¶ Ces observations étaient basées sur la doctrine des droits de belligérants énoncée dans la communication à laquelle je répondais, doctrine dont je n'admettais ni ne contestais la justesse. Si mon Gouvernement était d'avis qu'une nation est fondée à revendiquer les priviléges d'un belligérant, lorsqu'elle supprime une rébellion, sans pour cela conférer les mêmes priviléges aux rebelles, il pourrait n'être pas disposé à renoncer à pratiquer la visite et la recherche à bord des navires neutres, tant que ce remède serait nécessaire à la sécurité de cette nation. Votre Excellence se souviendra que je ne lui ai pas dissimulé que j'étais sans instructions de mon Gouvernement me prescrivant d'offrir ou d'accepter les conditions dont on ferait dépendre le retrait de la déclaration de juin 1861. Je faisais seulement valoir l'inconvénient et l'injustice des conditions mises au retrait de cet acte en vertu de prémisses supposées par Votre Excellence. La suppression définitive de la rébellion aux États-Unis, dont la nouvelle nous est parvenue depuis que la correspondance à laquelle je me réfère a eu lieu, ôte beaucoup de leur importance pratique aux points sur lesquels j'appelais l'attention de Votre Excellence. Il conviendrait, en même temps, que les communications de vive voix et par écrit que j'ai eu l'honneur de vous soumettre, le 27 du mois dernier, ne prissent pas, étant reproduites, une importance qu'à proprement parler elles n'avaient pas. ¶ Je désire donc que rien de ce que j'ai pu écrire ou dire à Votre Excellence ne soit envisagé comme une acceptation du principe qu'un État, en revendiquant les droits de belligérant contre ses sujets rebelles, confère nécessairement les droits de belligérants à ces derniers. ¶ Je profite de cette occasion, etc.

John Bigelow.

No. 2166.

FRANKREICH. — Min. d. Ausw. an den Ges. der Verein. St. in Paris. — Antwort auf des Letzteren vorstehende Note. —

Paris, le 17 juin 1865.

No. 2166. Frankreich, 17. Juni 1865.

Monsieur, j'ai reçu la lettre que vous m'avez fait l'honneur de m'écrire le 12 de ce mois. Vous voulez bien, à l'occasion de quelques paroles prononcées au Corps législatif dans la séance du 9, par M. le Ministre d'État, et d'une note publiée au *Moniteur* du 10, me rappeler les déclarations que vous m'avez précédemment faites au sujet du Mexique et du retrait de la qualité de belligérants aux États sécédés. ¶ „Ce que j'ai dit, m'écrivez-vous, à propos du Mexique, c'est que, maintenant que l'expérience a été commencée, les Américains désirent la voir compléter dans des circonstances de nature à faire connaître définitivement et pour toujours si un système de gouvernement européen est celui qui convient le mieux au peuple du Mexique. S'il devenait évident qu'il en est ainsi, et que la tranquillité publique fût rétablie, aucune nation ne serait plus intéressée à un pareil résultat que les voisins immédiats. J'ai ajouté que le succès des institutions républicaines dans l'Amérique espagnole n'avait pas été tel qu'il pût nous encourager à tenter de les y propager autrement que par notre exemple, et qu'enfin un Gouvernement quelconque qui serait acceptable pour les Mexicains nous satisferait." ¶ En ce qui concerne le retrait de la qualité de belligérants aux Confédérés, voici, me dites-vous, le langage dont vous vous êtes servi dans votre lettre du 29 mai: „Les États-Unis, en demandant que la déclaration de juin 1861 soit retirée, ont abandonné tous les droits de belligérants auxquels ils sont présumés avoir prétendu, et sont devenus directement responsables de tout acte qu'ils pourraient commettre à titre de belligérants. Si ce Gouvernement, la déclaration impériale étant retirée, visitait un bâtiment neutre, il s'exposerait aussitôt à des représailles, de même que pour toute autre violation des égards prescrits par la loi internationale." ¶ Considérant comme vous, Monsieur, qu'une discussion théorique sur les deux points serait aujourd'hui sans intérêt pratique, je vous remercie de m'avoir rappelé les termes mêmes des déclarations que vous avez bien voulu me faire. J'en reconnais l'exactitude et j'en prends acte. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2167.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die Versuche einer bewaffneten Einwanderung aus den Unionsstaaten nach Mexico betr. —

Paris, le 6 juillet 1865.

No. 2167. Frankreich, 6. Juli 1865.

Monsieur le Marquis, j'ai vu avec satisfaction, par vos dernières dépêches, que les tentatives faites aux États-Unis en vue d'y organiser une émigration armée pour le Mexique continuaient à perdre de leur importance, et

No. 2167. Frankreich, 6. Juli 1865.

j'approuve les termes dans lesquels vous vous proposiez d'entretenir de cette question M. Seward, lorsqu'il vous sera possible d'ouvrir vos relations avec lui d'une manière régulière et suivie. Il y avait pour nous un grand intérêt, en présence des projets d'expéditions bruyamment annoncés aux États-Unis à destination du Mexique, à rappeler au Cabinet de Washington que la législation du pays lui fournissait les moyens de mettre obstacle, s'il le voulait, à des entreprises de ce genre. Mais, ceci constaté, nos démarches ultérieures devaient rester subordonnées aux circonstances, et vous avez pensé avec raison qu'il n'y avait pas dans le moment actuel opportunité à demander au Gouvernement fédéral de publier une nouvelle proclamation conforme à celle de 1818. ¶ Les dispositions dont le Cabinet de Washington se montre animé à cet égard, et dont j'ai reçu dernièrement un nouveau témoignage, sont d'ailleurs de nature à nous satisfaire. Le 29 du mois dernier, M. Bigelow m'a donné communication d'une lettre qu'il venait de recevoir de M. Seward et qui était la première que ce Ministre eût écrite, ou plutôt dictée, depuis les événements dont il a été l'une des victimes. M. Seward y proteste contre les appréhensions que la vivacité de certains journaux américains avait fait naître en France. Il affirme, dans les termes les plus positifs, que le Gouvernement actuel maintient la politique adoptée par l'Administration précédente relativement au Mexique et sur laquelle le Représentant de l'Union avait été chargé maintes fois de me transmettre des explications. Le Cabinet de Washington est toujours résolu à observer la neutralité dans cette affaire. Il est persuadé que les instructions données par l'attorney général aux attorneys des districts suffiront à prévenir les armements illicites et que si, malgré les efforts du Gouvernement, quelques actes irréguliers venaient à se produire, ces actes n'auraient aucune importance et ne sauraient troubler ni la France ni le Mexique. J'ai accueilli avec plaisir ces déclarations, et je suis heureux de constater que les faits relatés dans votre correspondance confirment les assurances que M. Seward nous a spontanément données. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2168.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die Einwanderung früherer Conföderirter nach Mexico betr. und Dementirung der Gerüchte von beabsichtigten territorialen Erwerbungen Frankreichs in Mexico. —

Paris, le 20 juillet 1865.

No. 2168. Frankreich, 20. Juli 1865.

Monsieur le Marquis, les renseignements qui nous parviennent des États-Unis témoignent de l'importance particulière qu'on y attache en ce moment à la question de l'immigration des confédérés au Mexique, et des préoccupations entretenues dans les esprits par de prétendues cessions territoriales ou concessions d'exploitation que le Gouvernement de l'Empereur songerait à réclamer. ¶ La chute de la Confédération du Sud a hâté, pour le Gouvernement mexicain, le

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moment où il lui importe de ne rien négliger afin d'ouvrir avec le Cabinet de Washington des relations de bon voisinage. La question très-délicate de l'émigration des confédérés peut être, à mon avis, le point de départ d'un rapprochement, pourvu qu'elle soit traitée avec une grande netteté et une entière franchise. Elle ne pouvait donc manquer de fixer à ce titre l'attention de l'Empereur Maximilien. D'après ce que m'écrit notre ministre au Mexique, Sa Majesté est dans l'intention d'accueillir sur son territoire les émigrants qui s'y présenteraient, aux conditions suivantes. Ils devront, s'ils sont en armes et organisés militairement, déposer leurs armes à la frontière: on exigera d'eux un serment d'obéissance au Gouvernement mexicain, avec promesse de ne se livrer à aucune tentative contre un Gouvernement ami ou limitrophe. Ils se rendront, s'ils veulent se fixer comme colons, dans les endroits qui leur seront désignés, et ils ne pourront s'établir, ni sur la frontière des États-Unis, ni sur l'isthme de Tehuantepec. MM. les généraux Almonte et Robles doivent être chargés par l'Empereur de se rendre aux États-Unis pour y faire accepter ces conditions. ¶ Voici, suivant mes informations, à peu près en quels termes ils s'exprimeront à Washington: „Nous n'avons, diront-ils au Gouvernement fédéral, ni créé ni désiré la situation qui s'impose à nous: des débris des armées confédérées ou des citoyens exilés nous demandent asile; il en résulte pour nous des obligations de diverses natures, à aucune desquelles nous ne voulons nous soustraire. Nous désirons remplir les devoirs de l'humanité envers des vaincus que le sort de la guerre a contraints à quitter leur pays; nous voulons tirer avantage pour nous-mêmes et faire profiter le Mexique de l'activité et de l'énergie des hommes qui viennent chercher chez nous une nouvelle patrie; enfin, nous voulons ne pas nous brouiller avec nos voisins, et notre espoir est, au contraire, de nouer et d'entretenir avec l'Union américaine de bons et profitables rapports. Pour concilier ces nécessités diverses, nous accueillerons les Confédérés; mais nous nous proposons de les désarmer à leur arrivée sur le territoire mexicain s'ils s'y présentaient en armes, de les éloigner immédiatement de la frontière, de les interner dans l'intérieur du pays, où nous leur donnerons des terres et où nous faciliterons, selon leurs aptitudes, leur établissement définitif.“ ¶ Nous ne pouvons qu'approuver, en général, ce plan de conduite. Il m'a suggéré, toutefois, une observation. S'il importe pour le moment d'éloigner les Américains du territoire de l'Union, il ne me paraîtrait pas sage d'interdire pour toujours à tout émigrant américain la faculté de s'établir dans les districts miniers, et je ne pense pas que, le cas échéant, le Gouvernement fédéral s'en puisse émouvoir. Quoi qu'il en soit des détails d'exécution du plan de l'Empereur Maximilien, les explications dans lesquelles il nous avait paru qu'il était à propos d'entrer n'en conservent pas moins toute leur opportunité. Un pareil langage, clair, net, pratique, serait, je crois, entendu et compris à Washington. ¶ Quant aux bruits répandus de nouveau aux États-Unis, et qui nous attribuent le projet de rechercher des acquisitions territoriales ou des priviléges pour l'exploitation des districts miniers, vous savez qu'ils n'ont absolument aucun fondement. Vous connaissez mieux que personne quelles sont, à cet égard, nos intentions définitives, puisque c'est à vous que j'en avais fait part, le 30 novembre dernier, et que vous avez eu vous-même à les

notifier au Gouvernement mexicain. Les vues du Gouvernement de l'Empereur n'ont pas varié depuis cette époque. Il est fermement résolu à n'accepter la cession d'aucune partie du territoire mexicain, comme à décliner toute proposition de concession de mines dans la Sonora. Il importe que vous le disiez hautement autour de vous, de façon à ne laisser subsister aucun doute dans les esprits, et à enlever tout prétexte à de semblables allégations. ¶ Recevez, etc.

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Drouyn de Lhuys.

No. 2169.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in Paris an den Kais. Französ. Min. d. Ausw. — Uebersendung der Abschrift einer Correspondenz des Dr. Gwin betr. gewisse den Verein. St. feindliche Colonisationsprojecte in Mexico unter dem Schutze Frankreichs. —

Paris, le 1 août 1865.

No. 2169. Vereinigte Staaten, 1. Aug. 1865.

Le soussigné, envoyé extraordinaire et ministre plénipotentiaire des États-Unis, à Paris, a l'honneur de transmettre à S. Exc. le Ministre des Affaires étrangères copie de quatre lettres qui ont été récemment soumises au département d'État, à Washington. ¶ La première, datée de Mexico, le 16 mai 1865, est écrite par M. Wm M. Gwin, fils du docteur et de Mme Wm Gwin. La seconde est écrite par le docteur Gwin lui-même, sur la même feuille, sans date, et adressée à sa femme et à ses filles, à Paris. La troisième, de l'écriture bien connue du docteur, datée de Mexico, le 18 mai 1865, était adressée au colonel John Winthrop et commençait par ces mots : „Mon cher colonel." La quatrième, signée Massey et datée de Mexico, 18 mai 1865, était adressée à l'honorable B. Wood (maintenant prisonnier d'État, comme prévenu de trahison). Elle contient une communication à l'éditeur du *New-York Daily News*, datée de la ville de Mexico, le 19 mai 1865, et relative aux affaires du Mexique. ¶ De ces lettres, il ressort :

1° Que le docteur Wm M. Gwin et sa famille, quoique citoyens des États-Unis, sont traîtres à leur gouvernement;

2° Qu'ils cherchent à obtenir de Maximilien, qui porte le titre d'Empereur du Mexique, des concessions de terrains métallifères, dans le territoire de cette République, avoisinant les États-Unis, et que le docteur Gwin doit être le directeur de l'exploitation de ces mines;

3° Que l'on s'attend à voir s'établir dans ces provinces de nombreux capitalistes et émigrants, venant des États rebelles de l'Union;

4° Qu'ils donnent audit Maximilien et à l'Empereur des Français l'assurance que les établissements projetés tendent à la fois à servir les projets de Maximilien à Mexico et à le fortifier au détriment des États-Unis;

5° Qu'ils réclament le patronage de l'Empereur des Français avec la promesse de secours militaires.

En soumettant à son Excellence le Ministre des Affaires étrangères copie de cette correspondance, le soussigné est chargé de déclarer franchement

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que les sympathies du peuple américain pour les républicains du Mexique sont très-vives, et qu'il verrait avec impatience la continuation de l'intervention française dans ce pays; que toute faveur accordée aux projets du docteur Gwin par l'Empereur titulaire du Mexique ou par le Gouvernement impérial de France tendrait notablement à accroître cette impatience populaire, parce qu'elle serait regardée, peut-être avec justice, comme impliquant un danger ou du moins une menace pour les États-Unis. ¶ En supposant que le Gouvernement du soussigné fût amené à penser que les assertions de ces spéculateurs soient dignes d'une entière confiance, le Président des États-Unis serait forcé d'en conclure que S. M. l'Empereur des Français poursuit vis-à-vis du Mexique une politique matériellement en désaccord avec la neutralité qu'il avait promis, au début de la guerre, d'observer à l'égard des institutions politiques de ce pays. Le Président, au contraire, espère avec confiance et sincérité recevoir, sous une forme quelconque, l'assurance que toutes les prétentions du docteur Gwin et de ses associés sont dépourvues de toute sanction de l'Empereur des Français. ¶ Il n'est point nécessaire que le soussigné ajoute qu'après avoir chassé les insurgés de leurs frontières, les États-Unis ne sauraient les voir avec satisfaction se réorganiser en qualité d'ennemis militaires ou politiques de l'Union sur la rive opposée du Rio-Grande. ¶ Le soussigné saisit cette occasion, etc.

John Bigelow.

No. 2170.

FRANKREICH. — Min. d. Ausw. an den Ges. der Verein. St. in Paris. — Antwort auf die vorstehende Note des Letzteren. —

Paris, le 7 août 1865.

No. 2170. Frankreich, 7. Aug. 1865.

Monsieur, j'ai reçu la lettre que vous m'avez fait l'honneur de m'adresser, en date du 1er août. Vous m'y signalez certains projets de colonisation au Mexique, qui seraient conçus dans des intentions hostiles au Gouvernement des États-Unis, et vous désirez savoir s'il est vrai que l'empereur Maximilien et la France prêtent leur appui à ces entreprises. ¶ Nous serons toujours prêts, Monsieur, à répondre loyalement aux demandes d'explications qui nous viendront d'un pays allié, lorsqu'elles seront inspirées par un esprit de conciliation, présentées sur un ton amical, et fondées sur des documents réguliers ou des faits positifs. Mais je dois ajouter que l'Empereur est résolu à repousser toute interpellation qui nous serait faite sur un ton comminatoire, à propos de vagues allégations et sur la foi de pièces d'un caractère équivoque. ¶ Vous comprendrez, Monsieur, qu'il ne m'appartient pas de vous fournir des éclaircissements sur les spéculations de tel ou tel individu émigré au Mexique. Mais ce que je sais des intentions du Gouvernement mexicain me permet de vous dire qu'il se propose de ne laisser pénétrer sur son territoire les émigrants des États du Sud qu'individuellement et sans armes. Ils recevront les secours que l'humanité exige, mais ils seront aussitôt disséminés dans les provinces de l'Empire et devront, dans leur conduite, s'abstenir de tout ce qui pourrait éveiller la juste susceptibilité des na-

tions voisines. Au reste, j'ai lieu de croire que ces dispositions de l'Empereur Maximilien sont, à l'heure qu'il est, aussi connues du Cabinet de Washington qu'elles le sont de nous-mêmes. ¶ Quant à la France, elle a, Monsieur, en plusieurs occasions et avec une entière franchise, témoigné sa résolution d'observer, dans toutes les questions intérieures qui peuvent agiter ou diviser l'Union, une impartiale et scrupuleuse neutralité. Nous n'avons à offrir, comme gage de nos intentions, que notre parole; mais nous estimons que le parole de la France est une garantie qui doit suffire à une puissance amie, de même que nous nous contentons de la parole que le Gouvernement fédéral nous a donnée de conserver fidèlement la neutralité à l'égard des affaires du Mexique. Je me plais à rappeler ici, Monsieur, les assurances que j'ai eu la satisfaction de recevoir de vous à ce sujet, particulièrement dans votre lettre du 12 juin dernier *) et que j'ai consignées dans ma réponse en date du 17 du même mois *). Je m'en remets avec confiance aux sentiments dont vous avez été l'interprète, et, bien que certaines manifestations récentes puissent paraître difficiles à concilier avec ces déclarations, Sa Majesté n'hésite pas à se reposer toujours sur la loyauté du peuple américain. ¶ Agréez, etc.

No. 2170. Frankreich, 7. Aug. 1865.

Drouyn de Lhuys.

No. 2171.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Den vorstehenden Notenwechsel mit dem Ges. der Verein. St. und die Ziele der Französ. Expedition nach Mexico betr. —

Paris, le 17 août 1865.

No. 2171. Frankreich, 17. Aug. 1865.

Monsieur le Marquis, M. le Ministre des États-Unis m'a adressé, le 1er de ce mois, la note dont vous trouverez la copie ci-annexée. Dans la réponse, également ci-jointe en copie, que, par ordre de l'Empereur, j'ai faite à cette communication, j'ai dû déclarer à M. Bigelow que, toujours prêts à répondre aux demandes d'explications qui nous seraient présentées d'une manière amicale, il ne nous conviendrait pas de nous prêter à des interpellations formulées sur un ton comminatoire, à propos d'allégations vagues et sur la foi de documents équivoques. J'ai pris texte en même temps de la communication de M. le Ministre des États-Unis pour rappeler qu'observateurs d'une scrupuleuse neutralité dans toutes les questions intérieures qui peuvent agiter ou diviser l'Union américaine, nous étions en droit de compter sur l'exacte et loyale réciprocité qui nous a été promise de sa part à l'égard des affaires du Mexique. Nous y comptons, en effet, et cependant nous ne pouvons pas nous dissimuler qu'il devient difficile de concilier certains faits et certaines manifestations récentes, dont nous ne pouvons méconnaître le caractère, avec les assurances que nous avons reçues. ¶ Nous savons que notre expédition, ses conséquences, l'établissement d'une monarchie au Mexique, ont été vus avec déplaisir aux États-Unis; on nous l'a dit et nous l'avons regretté. Mais un déplaisir ne constitue pas un

*) No. 2165 und 2166.

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grief, un sentiment ne crée pas un droit, et la paix du monde serait exposée à de continuels dangers, si, dans ses relations avec ses voisins, chaque État se conduisait uniquement au gré de ses convenances ou de ses préférences. Dans un pays libre par excellence comme les États-Unis, on doit savoir que la liberté et le droit de chacun, État ou individu, ont pour limite la liberté et le droit d'autrui. ¶ Je n'ai plus à justifier notre expédition du Mexique. Obligés de nous faire justice à nous-mêmes, nous sommes allés chercher à Mexico les satisfactions qui nous étaient obstinément refusées. Nous obéissions à une nécessité de la même nature que celle qui avait conduit à une autre époque les armes américaines dans la capitale du Mexique. L'Union a usé des droits de la victoire dans toute leur plénitude en s'annexant un nouvel État. La France ne va pas aussi loin; nous sortirons du Mexique sans y avoir acquis un pouce de terre, et sans nous y réserver aucun avantage qui ne soit commun à toutes les Puissances. Après nos déclarations si formelles à cet égard, et les démentis catégoriques que nous avons opposés aux allégations contraires, nous sommes dispensés de répondre aux bruits persistants de cessions territoriales, à l'aide desquels on s'efforce aux États-Unis d'entretenir contre nous les susceptibilités. Le simulacre de Gouvernement auquel nous faisions la guerre a disparu à notre approche. Loin de prétendre disposer du pays, nous l'avons invité et encouragé à disposer de lui-même. ¶ Dans une communication qu'il me faisait l'honneur de m'adresser le 12 juin dernier, M. Bigelow voulait bien reconnaître que le succès des institutions républicaines dans l'Amérique espagnole n'avait pas été tel qu'il pût encourager les États-Unis à tenter de les y propager autrement que par leur exemple, et qu'enfin un Gouvernement quelconque qui serait acceptable pour les Mexicains satisferait les États-Unis. On n'a pas dû s'étonner, dès lors, que le Mexique, éclairé par une désastreuse expérience, cherchât, sous un régime mieux adapté à ses instincts, à sortir du chaos anarchique où l'avait plongé l'interminable série de ses révolutions. ¶ Un mouvement s'est produit dans le sens des idées monarchiques, en faveur d'un prince libéral, appartenant à une dynastie illustre assurément entre toutes, mais qu'aucun lien ne rattache à nous, et que nous venions précisément de combattre. L'archiduc Maximilien, appelé par les suffrages du pays et proclamé Empereur, exerce aujourd'hui des droits souverains qui lui ont été conférés par la nation mexicaine. Aucun autre pouvoir constitué n'existe sur le sol du Mexique. Un ancien président, fuyant de village en village, n'est pas plus un chef de Gouvernement que quelques bandes de guérillas, pillant et battant les routes, ne sont des armées. Le Cabinet de Washington peut-il ignorer cet état de choses? Il a, pendant quatre ans, contesté lui-même les caractères d'un pouvoir régulier au Gouvernement qui résidait à Richmond. Ne nous est-il pas permis de demander à quels signes il reconnaît dans la personne de M. Juarez les attributs de la souveraineté? ¶ Notre droit, résultant de nos intérêts lésés, nous a conduits au Mexique. Nous ne voulons pas laisser derrière nous l'anarchie, parce que nous ne voulons pas avoir de nouvelles injures à venger, des intérêts de nouveau compromis à défendre. Nous avons déjà ramené quelques-unes de nos troupes, et nous les rappellerons toutes graduellement au fur et à mesure du rétablissement de l'ordre et de la pacifica-

tion du pays. Nous hâtons de nos vœux les plus sincères le jour où le dernier soldat français quittera le Mexique. Ceux que notre présence inquiète ou importune peuvent contribuer à rapprocher ce moment. Il n'est pas douteux que les excitations du dehors n'y entretiennent l'agitation. Que ces encouragements cessent, qu'on laisse ce malheureux pays, fatigué d'anarchie, s'apaiser et s'organiser sous un Gouvernement réparateur; l'ordre et la tranquillité s'y feront bientôt, et le terme assigné à notre occupation en sera très-avancé. Mais on doit savoir que nous n'avons pas l'habitude de hâter notre pas sur des injonctions hautaines ou des insinuations comminatoires. ¶ Vous voudrez bien, Monsieur le Marquis, vous inspirer de cette dépêche et porter ces explications à la connaissance du Gouvernement fédéral. Elles ont pour but et nous désirons qu'elles aient pour effet d'éclaircir les situations et de dissiper tous les doutes sur nos intentions, s'il en était besoin. Nous espérons qu'il y sera répondu dans le même esprit de franchise et de conciliation qui nous les a dictées. Il n'est pas digne de deux grands peuples de laisser subsister entre eux des équivoques, et leurs Gouvernements encourraient un jugement sévère devant l'histoire et une grave responsabilité dans le présent, si, faute de s'être préalablement expliqués, ils livraient au hasard des circonstances et à l'imprévu des incidents le maintien de leurs bons rapports et la conservation de la paix. Confiants dans le bon sens loyal du peuple américain et dans la sagesse éclairée de son Gouvernement, nous ne voulons pas croire que des entraînements passagers puissent prévaloir contre la communauté des vieux souvenirs, des intérêts présents et des perspectives d'avenir, base vraiment solide et durable de l'alliance des deux pays. ¶ Recevez, etc.

No. 2171. Frankreich, 17. Aug. 1865.

Drouyn de Lhuys.

No. 2172.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die gescheiterte Mission des Kais. Mexican. Abgesandten H. Degollado an das Cabinet von Washington betr. —

Paris, le 17 août 1865.

No. 2172. Frankreich, 17. Aug. 1865.

Monsieur le Marquis, j'ai reçu la dépêche que vous m'avez adressée, à la date du 18 juillet, pour m'annoncer que la mission confiée à M. Degollado par le Gouvernement mexicain avait complétement échoué et que le Président, en refusant de recevoir la lettre de l'empereur Maximilien dont cet envoyé était porteur, avait décliné tous rapports avec lui. J'ai naturellement remarqué que M. le secrétaire d'État, en vous notifiant cette décision, en avait pris prétexte pour affirmer l'intention du Cabinet de Washington de continuer à ne reconnaître au Mexique que la République mexicaine et son Président M. Juarez. Si cette déclaration du Gouvernement fédéral est regrettable à tous égards, il ne l'est pas moins de l'avoir provoquée par une tentative au moins prématurée. Le Cabinet de Mexico aurait dû, avant de s'engager dans une démarche de ce genre, s'assurer de l'opportunité et des chances de succès de ses ouvertures, en s'éclairant

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mieux sur les dispositions dans lesquelles elles seraient accueillies à Washington. Il aurait évité ainsi de s'attirer une réponse désobligeante et de faire naître un incident fâcheux à tous les points de vue. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2173.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Bericht über eine Unterredung mit dem Ges. der Verein. St. in Paris in Betreff dessen Note vom 1. Aug. (No. 2169) sowie in Betreff der gegenseit. Stellung zu Mexico und den eventuellen Abzug der Französ. Truppen aus Mexico. —

Paris, le 2 septembre 1865.

No. 2173. Frankreich, 2. Sept. 1865.

Monsieur le Marquis, je n'avais pas eu l'occasion d'avoir un entretien officiel avec M. le Ministre des États-Unis depuis ma réponse, en date du 7 août, à sa précédente communication. M. Bigelow m'a fait l'honneur de venir me voir hier. Il n'avait pas, m'a-t-il dit, l'intention de répliquer à ma lettre, laissant ce soin à son Gouvernement, s'il jugeait opportun de le faire. Il tenait toutefois à me dire que, personnellement désireux de contribuer au maintien des relations amicales des deux pays, il répudiait toute intention d'introduire dans leurs rapports aucune irritation; qu'en mettant sous mes yeux des documents dont l'authenticité ne pouvait pas être douteuse pour lui, il n'avait pensé qu'à provoquer entre nous de franches explications, et qu'il croyait ne s'être pas écarté, dans la note qu'il m'avait adressée le 1er août, des égards que se doivent, dans toute discussion, les organes de Gouvernements qui se respectent et s'honorent mutuellement. J'ai répondu à M. Bigelow que, rendant pleinement justice à ses intentions, je n'avais jamais songé à impliquer sa personne dans un débat officiel entre nos deux Gouvernements. Il avait accompli son devoir en me remettant la communication qu'il était chargé de me faire, j'avais rempli le mien en y répondant au nom du Gouvernement de l'Empereur. J'avais, de mon côté, la conscience de ne m'être point inspiré, dans cette circonstance, d'une susceptibilité exagérée. Ayant dû placer sous les yeux de Sa Majesté et de ses Ministres, mes collègues, la note de M. Bigelow du 1er août, c'était leur impression unanime que j'avais traduite dans la réponse que j'y ai faite. Nous ne pouvions admettre, en effet, cette mise en demeure hautaine, étayée sur des documents dont je ne veux pas discuter l'origine, mais dont j'ai dénié absolument la valeur diplomatique. J'ai ajouté que je ne refuserais jamais de prendre connaissance de toutes pièces que M. le Ministre des États-Unis voudrait bien me communiquer à titre confidentiel et comme éléments d'information sur des faits à éclaircir, intéressant les relations des deux pays. Il me trouverait, au contraire, toujours prêt à lui fournir les explications qu'il pourrait désirer, ou réclamer, soit de S. Exc. M. le Ministre de la guerre, soit du Gouvernement mexicain, le complément de renseignements qui me serait nécessaire pour répondre à ses demandes. ¶ La conversation épuisée sur ce point, M. Bigelow m'a entretenu de la disposition générale des esprits aux

États-Unis en ce qui touche les affaires du Mexique, et de la nécessité où se trouve le Gouvernement fédéral de maintenir la question intacte jusqu'à la réunion du prochain congrès, dont il ne saurait préjuger ni engager à l'avance la politique et les résolutions. Il m'a lu des extraits d'une dépêche qu'il avait reçue récemment de M. Seward. M. le Secrétaire d'État approuve le langage de M. le Ministre des États-Unis à Paris en ce qui concerne les belligérants, mais il ne le trouve pas assez explicite quant aux dispositions du peuple américain à l'égard des affaires du Mexique. M. Seward craint qu'on n'en puisse inférer que ce peuple et son Gouvernement seraient indifférents à l'avenir des institutions républicaines en Amérique, et plus particulièrement au Mexique. Tel n'est point le sentiment des États-Unis, et M. le Secrétaire d'État exprime la confiance que les nations américaines continueront à prospérer sous le régime républicain. Au Mexique notamment, il désire et il espère voir cette forme de gouvernement se perpétuer et se consolider. Il n'en reconnaît pas d'autre, et le Gouvernement de ce pays est toujours à ses yeux personnifié dans le président Juarez. Il reconnaît un état de guerre existant entre la France et la République mexicaine; il n'a pas à en examiner les causes ni à émettre une opinion sur les griefs qui l'ont amené, et le Gouvernement fédéral est résolu à observer une stricte neutralité entre les belligérants; mais il espère que, la guerre terminée, les institutions républicaines lui survivront au Mexique. ¶ J'ai répondu à M. le Ministre des États-Unis qu'il ne saurait me convenir d'entrer dans une dissertation dogmatique sur les mérites comparés des institutions monarchiques et républicaines, mais que je ne pouvais assez m'étonner de voir méconnaître à ce point les faits existants et l'incontestable autorité légale qu'ils ont reçue des libres suffrages de la nation mexicaine. Le temps, la réflexion et le bon sens du peuple américain triompheraient, je n'en doutais pas, de ces préventions systématiques. Il ne m'était pas possible, cependant, de ne pas opposer une protestation formelle aux assertions de M. le Secrétaire d'État, persistant à considérer M. Juarez et ses bandes errantes, non-seulement comme un belligérant, mais encore comme le chef reconnu d'un Gouvernement régulier. Je ne pouvais ici me défendre d'un rapprochement qui se présentait de lui-même à l'esprit. Lorsque nous avons reconnu aux États du Sud le caractère de belligérants, le Gouvernement fédéral le leur a énergiquement contesté, et cependant un pouvoir constitué résidait à Richmond; il était obéi sur de vastes territoires, levait des impôts, était défendu par de nombreuses et vaillantes armées commandées par des chefs renommés: c'était bien là un belligérant, nous avons constaté le fait sans aller pourtant jusqu'à reconnaître le Gouvernement qui faisait mouvoir ces forces imposantes, et sans entrer en relations avec lui. Or, je cherchais vainement, je l'avoue, la trace d'une situation analogue au Mexique. J'y voyais un ancien président, fuyant de village en village, et, je le répète, je me demandais par quelle méprise on peut le supposer encore investi, non-seulement des droits d'un belligérant, mais encore des attributs d'un chef de Gouvernement. ¶ A cet égard, du reste, nous n'avons pas à discuter l'opinion ni les préférences du Gouvernement des États-Unis. Ce dont il nous importe de prendre acte, et c'est ce que j'ai fait vis-à-vis de M. Bigelow, c'est de sa déclaration que, reconnaissant deux belligérants au Mexique,

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le Cabinet de Washington entend rester étranger à leur querelle et observer entre eux une exacte neutralité. Il a toutefois appelé mon attention sur les préoccupations que causent à son Gouvernement les relations qu'il suppose avoir existé, ou exister encore, entre certains chefs confédérés et quelques-unes des autorités mexicaines: C'est du Texas que pourraient venir les tentatives pour troubler de nouveau l'Union américaine, et l'opinion publique, déjà en défiance, se tromperait facilement sur de simples apparences et s'irriterait profondément, si elle pouvait croire que de semblables tentatives se seraient organisées au Mexique, grâce au concours ou à la tolérance des agents du Gouvernement existant à Mexico. Il était donc nécessaire d'apporter de part et d'autre une grande prudence, de vider, par de loyales explications, tous les incidents qui viendraient à se produire pour les empêcher de s'envenimer et pour éloigner ainsi des occasions plus graves de conflits. J'ai répondu à M. Bigelow que le Gouvernement de l'Empereur Maximilien avait été au-devant du vœu qu'il m'exprimait, en prescrivant la plus grande circonspection et la plus exacte surveillance à ses autorités militaires sur la frontière du Texas; qu'on devait en être informé à Washington; que, quant à nous, nous n'avions pas cessé de recommander au Gouvernement mexicain de tenir rigoureusement la main à l'exécution de ces prévoyantes et loyales prescriptions, et d'y veiller nous-mêmes en ce qui nous concernait. J'ai ajouté que les observations de M. Bigelow, dont je reconnaissais la sagesse, me fournissaient une occasion, que je saisirais volontiers, de renouveler à Mexico nos recommandations et nos conseils sur ce point important. ¶ Dans le cours de notre entretien, M. Bigelow m'a demandé si l'état des choses au Mexique et les résultats obtenus nous permettaient d'augurer favorablement de la consolidation du régime nouveau, et de prévoir le moment où nous pourrions le laisser à lui-même et retirer nos troupes. Je lui ai répondu que nous envisagions avec confiance l'avenir de la monarchie mexicaine; qu'il m'était impossible de préciser le temps où notre appui cesserait de lui être nécessaire, mais que les progrès accomplis dans l'organisation du pouvoir et dans le rétablissement d'un ordre plus régulier nous avaient déjà permis de rappeler quelques troupes; qu'on devait savoir que notre plus vif désir était de les rappeler toutes le plus promptement possible; mais en même temps on ne devait pas ignorer que nous étions décidés à ne quitter le Mexique qu'après y avoir assuré le réglement des intérêts qui nous y ont amenés, et nous être prémunis contre le retour des désordres et des violences dont, comme d'autres, nous avons eu trop souvent à demander compte aux Gouvernements antérieurs. Ainsi que je vous le disais, Monsieur le Marquis, dans une précédente dépêche, et je l'ai répété à M. Bigelow, le Gouvernement fédéral peut beaucoup contribuer à hâter le moment où le dernier soldat français quittera le sol du Mexique. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2174.

VEREINIGTE STAATEN von **AMERIKA**. — Ges. in Paris an den Kais. Französ. Min. d. Ausw. — Uebermittelung der Copie einer aus Washington erhaltenen Depesche betr. das Project des Dr. Gwin. —

Paris, le 12 septembre 1865.

No. 2174. Vereinigte Staaten, 12. Sept. 1865.

Monsieur, j'ai reçu la note que Votre Excellence m'a écrite le 7 du mois dernier en réponse à la communication que j'ai eu l'honneur de lui adresser le 1er du même mois relativement aux prétendus projets du docteur Gwin et de ses associés à Mexico. ¶ J'ai l'honneur de transmettre à Votre Excellence la copie ci-jointe d'une dépêche que je viens de recevoir de mon Gouvernement. ¶ Je saisis cette occasion, etc.

John Bigelow.

Anlage. — M. Seward, Secrétaire d'État, au Ministre des États-Unis, à Paris.

Washington, le 24 août 1865.

Vereinigte Staaten, 24. Aug. 1865.

Monsieur, j'ai reçu votre lettre en date du 10 août, ainsi que la correspondance que vous avez échangée avec M. Drouyn de Lhuys au sujet des prétendus projets du docteur Gwin et de ses associés à Mexico. ¶ Je suis heureux de vous dire, d'après des informations que j'ai tout lieu de croire authentiques et qui me sont parvenues du Mexique pendant que vous échangiez votre correspondance avec M. Drouyn de Lhuys, que les spéculations projetées sont probablement abandonnées. Je suis non moins heureux de voir que M. Drouyn de Lhuys, dans la communication qu'il vous a adressée le 7 août, nous assurait que ces entreprises, si elles avaient un caractère hostile aux États-Unis, seraient désapprouvées par les autorités de Mexico, dirigées par l'Empereur des Français, ou agissant en coopération avec lui. J'ai vu avec regret que M. Drouyn de Lhuys avait blâmé, dans le fond et dans la forme, la réclamation que vous lui avez adressée et qui a motivé la communication citée précédemment. Dans ces circonstances je crois devoir dire que votre réclamation était conforme aux instructions qui vous ont été adressées par ce département et que nous n'y avons rien trouvé à critiquer. Ces instructions vous ont été adressées dans la pensée qu'il était nécessaire de faire attention, dans une juste mesure, aux rumeurs qui étaient alors en circulation sur le projet du docteur Gwin et de ses associés à Mexico, afin de prévenir des difficultés et de calmer les craintes qui auraient pu altérer les bons rapports existant entre les États-Unis et la France. Le Président est reconnaissant d'avoir reçu de M. Drouyn de Lhuys une nouvelle assurance de la résolution de l'Empereur d'observer une impartiale et scrupuleuse neutralité dans toutes les questions intérieures qui peuvent agiter ou diviser les États-Unis. ¶ Je suis, etc.

William H. Seward.

No. 2175.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Geneigtheit zur Abberufung der Französ. Truppen aus Mexico, wenn die Vereinigten St. das Kaiserthum Mexico anerkennen. —

Paris, le 18 octobre 1865.

No. 2175. Frankreich, 18 Oct. 1865.

Monsieur le Marquis, j'ai eu plusieurs fois l'occasion, depuis deux mois, de vous entretenir des dispositions du Gouvernement de l'Empereur concernant la durée de l'occupation française au Mexique. Je vous disais, dans une dépêche du 17 août, que nous appelions de nos vœux les plus sincères le jour où le dernier soldat français quittera ce pays, et que le cabinet de Washington pouvait contribuer à en rapprocher le moment. Le 2 septembre, je vous déclarais de nouveau que notre plus vif désir était de retirer notre corps auxiliaire aussitôt que la situation le permettrait. Enfin, reprenant les mêmes idées avec plus de développement dans une lettre particulière du 10 du même mois, j'ajoutais qu'il dépendait beaucoup des États-Unis de faciliter le départ de nos troupes en adoptant envers le Gouvernement mexicain une attitude amicale qui aiderait à l'affermissement de l'ordre et dans laquelle nous pourrions trouver des motifs de sécurité pour les intérêts qui nous ont obligés à porter nos armes au delà de l'Atlantique. ¶ Nous serions prêts à rechercher, dès à présent, les bases d'une entente à ce sujet avec le Cabinet de Washington, et je tiens à vous exposer aujourd'hui tout entière la pensée du Gouvernement de Sa Majesté. ¶ Ce que nous demandons aux États-Unis, c'est d'être assurés que leur volonté n'est pas de nuire à la consolidation du nouvel état de choses fondé au Mexique, et la meilleure garantie que nous puissions avoir de leurs intentions serait la reconnaissance de l'Empereur Maximilien par le Gouvernement fédéral. ¶ L'Union américaine ne saurait, ce nous semble, être retenue par la différence des institutions, car elle est en rapports officiels avec toutes les Monarchies de l'Europe et du Nouveau-Monde. Il est conforme à ses principes en matière de droit public d'envisager la royauté élevée au Mexique pour le moins comme un Gouvernement de fait, sans s'attacher ni à sa nature ni à son origine, consacrée d'ailleurs par le suffrage du pays; et en agissant ainsi, le Cabinet de Washington ne ferait que s'inspirer de ces sentiments de sympathie que le Président Johnson présentait récemment au nouvel envoyé du Brésil comme devant guider la politique de l'Union envers les jeunes États du continent américain. ¶ Le Mexique, à la vérité, est encore occupé aujourd'hui par l'armée française, et nous prévoyons que cette objection sera élevée. Mais la reconnaissance de l'Empereur Maximilien par les États-Unis aurait, dans notre opinion, assez d'influence sur l'état intérieur du pays, pour nous permettre de tenir compte de leurs susceptibilités à cet égard, et si le Cabinet de Washington se décidait à nouer des relations diplomatiques avec la Cour de Mexico, nous ne ferions pas difficulté de prendre des arrangements pour rappeler nos troupes dans un délai raisonnable dont nous pourrions consentir à fixer le terme. ¶ En raison du voisinage et de l'immense étendue des frontières communes, l'Union est intéressée plus qu'aucune

autre Puissance à ce que ses échanges avec le Mexique soient placés sous la sauvegarde de stipulations en harmonie avec les besoins mutuels. Nous emploierions volontiers nos bons offices pour faciliter la conclusion d'un traité de commerce qui cimenterait le rapprochement politique dont je viens de vous faire connaître les bases. ¶ Par ordre de l'Empereur, je vous invite à instruire M. Seward des dispositions du Gouvernement de Sa Majesté. Vous êtes autorisé, si vous le jugez utile, à lui donner lecture de cette dépêche. ¶ Recevez, etc.

No. 2175. Frankreich, 18. Oct. 1865.

Drouyn de Lhuys.

No. 2176.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Erläuterung zur vorstehenden Depesche. —

Paris, le 18 octobre 1865.

Monsieur le Marquis, l'Empereur vous recommande très-particulièrement l'affaire que je traite dans ma dépêche en date d'aujourd'hui. En vous écrivant cette dépêche, je suis entré dans une voie que M. Bigelow m'a ouverte lui-même, il y a quelques jours. A la suite d'une conversation engagée sur d'autres sujets, ce Ministre m'a demandé, en son nom personnel, et sans préjuger l'opinion de son Gouvernement, si je ne pensais pas que la reconnaissance de l'Empire mexicain par les États-Unis pût faciliter et hâter le rappel de nos troupes. Les instructions que je vous adresse sont la réponse à cette question. ¶ Recevez, etc.

No. 2176. Frankreich, 18. Oct. 1865.

Drouyn de Lhuys.

No. 2177.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Bericht über eine Unterredung mit dem Ges. der Verein. St. in Paris, betr. die Weigerung der Unionsregierung, d. Kaiserth. Mexico anzuerkennen. —

Paris, le 29 novembre 1865.

Monsieur le Marquis, j'ai eu récemment, avec M. Bigelow, une conversation dont je crois utile de vous faire connaître la substance. ¶ Dans le cours de cet entretien, M. le Ministre des États-Unis a énuméré les raisons pour lesquelles le Cabinet de Washington ne songe point à établir de relations diplomatiques avec le Gouvernement mexicain. L'origine de ce Gouvernement, l'antagonisme entre sa forme et les institutions républicaines du pays voisin, enfin le peu de progrès que ferait l'Empereur Maximilien dans la confiance et l'affection de ses sujets, tels sont les trois motifs qui s'opposent, suivant M. Bigelow, au rapprochement que nous désirons. Le représentant du Gouvernement fédéral a critiqué en même temps certaines mesures adoptées au Mexique. Il m'a cité, notamment, le décret relatif à la répression du brigandage, et un autre concernant l'introduction des noirs; puis il m'a parlé des interprétations fâcheuses auxquelles pouvaient donner lieu les honneurs accordés à la famille d'Iturbide, et il m'a

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exprimé les sentiments peu favorables que l'ensemble de ces différentes résolutions inspirait au peuple américain. ¶ Bien que la majeure partie de cette thèse ne fût pas nouvelle, j'ai cru devoir y répondre. Je ne veux pas, ai-je dit à M. Bigelow, revenir une fois de plus sur les causes qui ont déterminé l'expédition du Mexique. Ces causes sont les mêmes que celles qui amenèrent, il y a plusieurs années, le drapeau fédéral à Mexico. Une double question d'intérêt et de dignité nous a contraints de recourir à la voie des armes, après avoir inutilement épuisé tous les autres moyens de faire rendre justice à nos nationaux. Ne trouvant dans l'administration de M. Juarez ni réparations pour le passé, ni garanties pour l'avenir, nous nous sommes félicités de voir le peuple mexicain se donner un autre gouvernement, et, fidèles aux maximes de notre droit public, nous avons applaudi à une manifestation de la volonté nationale. Notre armée n'a pas exercé la moindre pression sur ce grand acte, et le nouveau gouvernement une fois établi, nous nous sommes fait une loi absolue du respect de son indépendance. ¶ La forme monarchique, loin de constituer une innovation, a sa racine dans les traditions du pays, et l'autre système de gouvernement n'a pas assuré à la nation mexicaine assez de force, de bien-être et de stabilité pour qu'on puisse la blâmer de la résolution qu'elle a prise. Nous ne contestons pas ce que les institutions républicaines ont donné de grandeur et de prospérité aux États-Unis; mais il n'y a rien d'absolu en politique, et tel gouvernement qui convient à un pays ne convient pas à un autre. Ce qui est certain, c'est qu'il n'y avait au Mexique, avant le nouveau règne, que désordres et anarchie. Le Cabinet de Washington n'a-t-il pas été le premier à se plaindre de cette situation violente et troublée? Son intérêt, comme celui de toutes les autres Puissances, n'était-il pas de voir s'établir dans cette contrée un ordre de choses plus normal et plus en harmonie avec les conditions de vitalité des sociétés modernes? La forme monarchique n'est assurément une menace pour personne. Un Empire au Mexique n'est pas plus incompatible avec la dignité des États-Unis qu'un Empire au Brésil. Il y a d'ailleurs en cette matière un principe qui domine tous les autres, c'est la liberté qui appartient à chaque nation de choisir son régime politique, et les États-Unis ont un trop juste sentiment de leur propre indépendance pour vouloir mettre des entraves à celle de leurs voisins. ¶ Quant au degré de confiance et d'affection que la nation mexicaine ressent pour son souverain, les rapports qui nous parviennent ne concordent pas avec ceux que reçoit le Cabinet de Washington. J'apprends en effet que le nouveau Gouvernement se consolide chaque jour davantage, que Juarez, dont le mandat légal vient d'expirer, ne représente plus rien, même aux yeux de ses rares partisans; que, changeant constamment de résidence, n'ayant ni armée, ni finances, ni administration, il n'est, en droit comme en fait, revêtu d'aucun des caractères qui constituent un chef d'État. L'Empereur Maximilien peut-il, dans de pareilles conditions, accorder aux bandes qui tiennent encore la campagne les droits de belligérants? Le Gouvernement fédéral n'a-t-il pas contesté cette qualité aux Confédérés du Sud? Et cependant la Confédération avait un vaste territoire, des pouvoirs partout obéis, des généraux d'un rare talent, des armées dont les troupes fédérales n'ont pu vaincre la résistance qu'à force de patience et de courage. La prétendue autorité

de Juarez n'est au contraire qu'une fiction. Où est le siége de son Gouvernement? Qui sait le nom de ses fonctionnaires ou de ses officiers? Quelle est la province, quelle est la ville qui lui est soumise? Où trouve-t-on des traces régulières de son administration? Qu'en reste-t-il, sinon quelques bandes indisciplinées ne vivant que de brigandage? Si aujourd'hui les débris des armées du Sud formaient des guérillas parcourant le territoire fédéral, les États-Unis s'aviseraient-ils de les traiter comme des belligérants? Dans une pareille situation, il ne s'agit pas de loi internationale; il n'y a plus qu'une question intérieure, et le premier devoir d'un Gouvernement bien organisé c'est de maintenir l'ordre dans le pays. ¶ En ce qui touche la famille d'Iturbide, je n'ai pas à discuter les raisons qui ont pu motiver la décision toute spontanée de l'Empereur Maximilien. Sans doute il aura voulu relever de l'obscurité un nom jadis illustre, et sa résolution lui aura été inspirée par un sentiment de bienveillance et par le respect des souvenirs historiques de la nation mexicaine. Je rappellerai d'ailleurs en passant qu'il est inexact que des droits de succession aient été conférés au jeune Iturbide. ¶ Au surplus, si certaines mesures adoptées à Mexico provoquent la critique du Cabinet de Washington, ce n'est pas à nous qu'on doit en demander compte. Autonome et indépendant, le Gouvernement mexicain répond de ses actes. Il est vrai que nos troupes sont encore au Mexique; mais l'appui que nous prêtons à l'Empereur Maximilien ne constitue en aucune sorte un lien de vassalité. ¶ En vous adressant ce résumé de mon entretien avec M. Bigelow, j'ai voulu, Monsieur le Marquis, à la veille de l'ouverture du Congrès, vous mettre en mesure de rectifier les appréciations erronées qui pourraient se produire autour de vous, et je vous autorise à faire usage de la présente dépêche dans vos conversations avec M. Seward et avec les personnages politiques de l'Union. ¶ Recevez, etc.

No. 2177. Frankreich, 29. Nov. 1865.

Drouyn de Lhuys.

No. 2178.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die Ernennung eines Ges. der Verein. St. bei der Republik Mexico betr. —

Paris, le 8 décembre 1865.

Monsieur le Marquis, jai reçu la dépêche dans laquelle vous me rapportez l'entretien que vous avez eu avec M. Seward, relativement à la nomination du général Logan en qualité de Ministre des États-Unis près la République mexicaine, et les explications que M. le Secrétaire d'État a jugé nécessaire de vous donner au sujet de cette mesure, pour en atténuer la fâcheuse impression. Nous ne saurions dissimuler notre regret de la détermination qu'a prise le Gouvernement fédéral, et les opinions publiquement manifestées par le général Logan sur notre expédition au Mexique nous la font paraître plus inopportune encore. Le Gouvernement de l'Empereur, lorsqu'il a étendu au Mexique la protection qu'attendent de lui tous ses nationaux, n'a poursuivi que l'accomplissement d'une impérieuse obligation; il devait à la fois assurer aux intérêts français de légitimes

No. 2178. Frankreich, 8. Dec. 1865.

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réparations pour le passé et des garanties pour l'avenir. Cette tâche une fois remplie, son action sera dégagée, car aucune arrière-pensée de conquête ou de domination ne retiendra nos armes au delà de l'Océan. Il serait donc pénible de voir qu'au moment où nous recherchons les moyens de rapprocher le terme de notre expédition, des malentendus vinssent compromettre nos relations traditionnelles avec les États-Unis, et que d'une situation essentiellement transitoire pût naître un sérieux péril pour les intérêts permanents qui unissent les deux peuples. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2179.

FRANKREICH. — Ges. in Washington an den Kais. Min. d. Ausw. — Uebersendung der Antwort des Staatssecretär d. Ausw. der Verein. St. auf die Französ. Depesche vom 18. October (No. 2175). —

Washington, le 11 décembre 1865.

No. 2179. Frankreich, 11. Dec. 1865.

Monsieur le Ministre, j'ai remis, le 30 novembre, à M. le Secrétaire d'État, copie et traduction de la dépêche de Votre Excellence du 18 octobre dernier. J'ai l'honneur de mettre aujourd'hui sous vos yeux la note que vient de m'adresser à ce sujet M. le Secrétaire d'État. Je me suis borné à lui répondre qu'elle m'était exactement parvenue et que je ne manquerais pas de la soumettre immédiatement à l'appréciation du Gouvernement de l'Empereur, dont j'attendrais les instructions pour en discuter le contenu. ¶ Veuillez agréer, etc.

Montholon.

No. 2180.

VEREINIGTE STAATEN von AMERIKA. — Staatssecr. d. Ausw. an den Kaiserl. Französ. Ges. in Washington. — Ablehnung der Anerkennung des Kaiserthums Mexico. —

Washington, le 6 décembre 1865.

No. 2180. Vereinigte Staaten, 6. Dec. 1865.

Monsieur, ayant fait connaître au Président les vues de l'Empereur sur les affaires mexicaines que vous m'avez communiquées le 30 novembre, j'ai maintenant l'honneur de vous informer des dispositions du Gouvernement fédéral par rapport au même objet. Il me paraît néanmoins convenable de vous dire tout d'abord que ce que j'ai à vous communiquer a déjà été porté à la connaissance de M. Bigelow, en l'autorisant à en faire part à M. Drouyn de Lhuys. ¶ Le sens des suggestions de l'Empereur, lorsqu'on les réduit à une forme pratique, semble être que la France est disposée à se retirer du Mexique aussitôt qu'elle le pourra, mais qu'elle ne saurait le faire sans inconvenient avant d'avoir reçu des États-Unis l'assurance de dispositions amicales ou tolérantes envers le pouvoir qui s'est approprié (*assumed*) la forme impériale dans la ville capitale de Mexico. Le Président est heureux des assurances que vous lui donnez ainsi des bonnes dispositions du Gouvernement français. Je regrette toutefois d'être obligé de

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vous dire que la condition mise en avant est une de celles qui nous semblent complétement impraticables. ¶ Il est incontestablement vrai que la présence de forces étrangères dans une contrée limitrophe ne peut, en toutes circonstances, que nous causer malaise et inquiétude. Cela nous entraîne à des dépenses gênantes, sans parler des dangers d'une collision. Néanmoins, je ne puis que déduire de la teneur de votre communication que la principale raison du mécontentement qui existe aux États-Unis à l'égard du Mexique n'est pas pleinement appréciée par le Gouvernement de l'Empereur. La raison principale n'en est pas qu'il y ait au Mexique une armée étrangère, encore moins que cette armée soit française. Nous reconnaissons à toute nation souveraine le droit de faire la guerre à une autre, pourvu que cela n'empiète pas sur nos droits, ou ne menace pas notre sécurité ou notre juste influence. La cause réelle de notre mécontentement national est que la présence actuelle d'une armée française au Mexique est une atteinte à l'existence d'un Gouvernement indigène républicain qui y a été fondé par le peuple, et pour lequel les États-Unis n'ont cessé d'avoir les sympathies les plus vives; et que cette armée y est allée dans le but avoué de détruire ce Gouvernement républicain, et d'établir sur ses ruines un Gouvernement monarchique étranger dont l'existence au Mexique, aussi longtemps qu'elle y sera tolérée, ne saurait être regardée par le peuple des États-Unis que comme étant préjudiciable et menaçante pour les institutions républicaines qu'il s'est données et auxquelles il est profondément attaché. ¶ J'admets que les États-Unis ne se croient pas appelés à entreprendre une guerre de propagande républicaine dans toutes les parties du monde, et même sur ce continent. Nous avons assez de foi dans le succès futur de la cause républicaine sur ce continent, par le seul fait de ses effets moraux et matériels, pour que cela nous engage à ne pas nous départir de l'état de choses que nous avons trouvé ici, alors que notre République recevait sa forme et son développement. D'un autre côté, nous avons constamment maintenu et nous nous croyons encore obligés de maintenir que le peuple de tout État du continent américain a le droit de s'assurer pour lui-même une forme de Gouvernement républicain, s'il le juge convenable, et que l'intervention de toute puissance étrangère, dans le but d'empêcher ledit peuple de jouir du bienfait des institutions qu'il s'est données, de son propre gré, est injuste en droit et hostile dans ses effets à la forme libre et populaire du Gouvernement existant aux États-Unis. Nous trouverions injuste aussi bien qu'imprudent de la part des États-Unis de chercher à renverser par la force les Gouvernements monarchiques d'Europe dans le dessein de les remplacer par des institutions républicaines. De même, il nous paraît inadmissible que les Gouvernements européens prétendent intervenir dans les États situés sur ce continent dans l'intention de détruire les institutions républicaines pour y substituer des monarchies ou des empires. ¶ Ayant ainsi franchement défini notre position, je soumets la question à l'appréciation de la France, en souhaitant sincèrement que cette grande nation puisse trouver qu'il est compatible avec ses véritables intérêts, de même qu'avec son honneur si haut placé, d'abandonner l'attitude agressive qu'elle a prise au Mexique, en se retirant en temps convenable et raisonnable, de manière à laisser au peuple mexicain la libre jouissance du système de gouvernement républicain

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qu'il s'est choisi, et auquel il a donné des preuves d'attachement qui ont paru aux États-Unis aussi décisives et concluantes qu'elles ont été touchantes. Il conserve d'autant plus l'espoir d'arriver à une telle solution de la difficulté, qu'en tout temps, jusqu'aux quatre dernières années, lorqu'on demandait à un homme d'État ou à un citoyen américain quel était le pays d'Europe qui avait, à ses yeux, le moins de chances de jamais s'aliéner l'affection des États-Unis, la réponse était aussitôt: la France. ¶ L'amitié de la France a toujours été considérée par le peuple américain comme importante et comme lui étant particulièrement agréable. Tout citoyen américain la regarde comme étant non moins importante et désirable pour l'avenir que pour le passé. ¶ Le Président sera heureux de connaître l'accueil qui aura été fait par l'Empereur aux suggestions contenues dans cette note. ¶ Je suis, etc.

W. H. Seward.

No. 2181.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die Präsidialbotschaft an den Congress vom 4. Dec. 1865 (No. 2034) betr. —

Paris, le 26 décembre 1865.

No. 2181. Frankreich, 26. Dec. 1865.

Monsieur le Marquis, j'ai lu avec intérêt le message que Son Excellence M. le Président Johnson a adressé au congrès des États-Unis, et dont vous m'avez fait parvenir un exemplaire*). Mon attention s'est portée plus spécialement sur les parties de ce document qui pouvaient avoir trait aux questions intéressant à la fois la politique du cabinet de Washington et la nôtre. M. Johnson, dans un passage qui semble faire allusion à notre expédition au Mexique, se livre à des considérations qu'il ne m'appartient pas de discuter ici, sur les vicissitudes des Constitutions monarchiques et républicaines dans les deux hémisphères. Je vous ferai simplement observer que la poursuite de nos griefs contre le Mexique n'a aucune connexité avec l'existence, dans ce pays, de telle ou telle forme de gouvernement, et qu'elle n'a pu dépendre davantage d'une question de géographie. Si, au moment où nous exigions pour nos nationaux de justes réparations, le pouvoir qui nous les refusait eût été une monarchie, cette circonstance ne nous eût certes pas fait renoncer à revendiquer notre droit, et en quelque partie du monde qu'habitât la nation qui eût lésé les intérêts français, la protection de l'Empereur, due à tous ses sujets, s'y fût de même légitimement étendue. Je ne puis croire que le premier magistrat de l'Union ait eu la pensée d'élever des doutes sur des notions aussi évidentes. ¶ Le même passage du manifeste présidentiel parle de „provocation qui obligerait le peuple américain à défendre le républicanisme contre l'intervention étrangère," de „desseins hostiles à la forme de Gouvernement des États-Unis," et enfin „d'agression de la part des Puissances européennes." Nous ne pouvons nous sentir atteints par ces expressions, car elles ne s'appliquent en rien à la politique que nous avons suivie. Il serait superflu de vous rappeler que les sentiments de constante

*) No. 2034.

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amitié, témoignés par l'Empereur envers les États-Unis, excluent toute hypothèse d'une provocation ou d'une agression de notre part. Quant à menacer la forme de gouvernement que ce pays s'est donnée, et que la France elle-même a contribué à fonder au prix de son sang, rien ne saurait être plus étranger qu'une pareille entreprise aux traditions et aux principes du Gouvernement impérial. ¶ Je ne vois donc rien, dans le langage de M. Johnson, qui soit vraiment de nature à soulever des inquiétudes sur la durée des relations amicales entre la France et les États-Unis, et s'il règne quelque ambiguïté dans les termes employés à propos des questions qui préoccupent les deux peuples, d'autres parties du message, en fixant la portée des paroles du Président, dissipent heureusement toute incertitude. La mise de l'armée fédérale sur le pied de paix et la réduction considérable de ses cadres, en même temps que la diminution des forces navales de l'Union, prouvent les intentions pacifiques du cabinet de Washington, et l'annonce de ces mesures par M. le président Johnson est pour nous un gage de la confiance réciproque qui doit continuer à animer nos deux Gouvernements. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2182.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Ausführliche Beantwortung der Seward'schen Note vom 6. Dec. 1865 (No. 2180) und nochmalige Darlegung des Zweckes der Französ. Expedition in Mexico. —

Paris, le 9 janvier 1866.

No. 2182. Frankreich, 9. Jan. 1866.

Monsieur le Marquis, je vous avais chargé, par ordre de l'Empereur, de faire connaître au Cabinet de Washington les vues du Gouvernement de Sa Majesté sur les affaires du Mexique, et vous avez, conformément à mes instructions, donné connaissance à M. Seward de la dépêche que j'ai eu l'honneur de vous écrire en date du 18 octobre*). M. le Secrétaire d'État a répondu à cette dépêche par une communication qu'il a bien voulu vous adresser le 6 décembre**), et dont je crois devoir reproduire ici les points principaux. ¶ Suivant M. Seward, la présence d'une force étrangère dans une contrée voisine de l'Union ne saurait être qu'une cause de malaise et d'inquiétude. Cet état de choses entraîne pour le Gouvernement fédéral des dépenses gênantes et peut amener des collisions. Toutefois, le principal motif du déplaisir des États-Unis n'est pas qu'il y ait au Mexique une armée étrangère, encore moins que cette armée soit française. Le Cabinet de Washington reconnaît à toute nation souveraine le droit de faire la guerre, pourvu que l'usage de ce droit ne menace point la sécurité et la légitime influence de l'Union. Mais l'armée française est allée au Mexique afin de renverser un Gouvernement national républicain et dans le but avoué de fonder sur ses ruines un Gouvernement monarchique

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*) No. 2175.
**) No. 2180.

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étranger. M. Seward établit à ce sujet combien le peuple des États-Unis est attaché aux institutions qu'il s'est données, et, repoussant toute idée de propagande en faveur de ces institutions, il réclame pour les divers peuples du Nouveau-Monde le droit de s'assurer, selon leurs convenances, cette forme de Gouvernement. Il regarderait comme inadmissible que les puissances européennes intervinssent dans ces pays avec la pensée de détruire la forme républicaine pour y substituer des royaumes et des empires. ¶ „Ayant ainsi franchement défini notre position, ajoute M. Seward, je soumets la question au jugement de la France en souhaitant sincèrement que cette grande nation puisse trouver qu'il est compatible avec ses véritables intérêts, de même qu'avec son honneur si haut placé, d'abandonner l'attitude agressive qu'elle a prise au Mexique." ¶ M. Seward rappelle, en terminant, comme une raison de son espoir d'arriver à une heureuse solution, l'ancienne affection des États-Unis pour la France et le prix que tout citoyen américain a constamment attaché dans le passé et attache pour l'avenir à notre amitié. ¶ Je n'ai pas manqué de placer cette communication sous les yeux de l'Empereur, et, après avoir mûrement examiné les considérations exposées par M. Seward, le Gouvernement de Sa Majesté demeure convaincu que la divergence des vues entre les deux Cabinets est, avant tout, le résultat d'une appréciation erronée de nos intentions. ¶ Notre expédition, ai-je besoin de le dire, n'avait rien d'hostile aux institutions des peuples du Nouveau-Monde, et encore moins assurément à celles de l'Union. La France ne saurait oublier qu'elle a contribué de son sang à les fonder, et au nombre des souvenirs glorieux que nous a légués l'ancienne monarchie, il n'en est pas un seul dont Napoléon I se soit montré plus fier, et que Napoléon III soit moins disposé à répudier. Si, d'ailleurs, nous eussions été dirigés par une pensée malveillante envers cette République, aurions-nous cherché, dès le principe, à obtenir le concours du Gouvernement fédéral, qui avait comme nous des réclamations à faire valoir? Aurions-nous observé la neutralité dans la grande crise que les États-Unis ont traversée? Et aujourd'hui, serions-nous disposés, comme nous le déclarons avec la plus grande franchise, à rapprocher autant qu'il nous sera possible le moment du rappel de nos troupes? ¶ Notre unique but a été de poursuivre les satisfactions auxquelles nous avions droit, en recourant aux moyens coërcitifs, après avoir épuisé tous les autres. On sait combien les réclamations des sujets français étaient nombreuses et légitimes. C'est en présence d'une série de vexations flagrantes et de dénis de justice éclatants que nous avons pris les armes. Les griefs des États-Unis étaient certainement moins nombreux et moins importants, lorsqu'ils ont été amenés, eux aussi, il y a quelques années, à employer la force contre le Mexique. ¶ L'armée française n'a point apporté les traditions monarchiques sur le sol mexicain dans les plis de son drapeau. Le cabinet de Washington ne l'ignore pas: il y avait dans ce pays depuis un certain nombre d'années, un groupe d'hommes considérables qui, désespérant de trouver l'ordre dans les conditions du régime alors existant, nourrissaient la pensée de revenir à la monarchie. Leurs idées avaient été partagées par l'un des derniers présidents de cette République, qui avait même offert d'user de son pouvoir pour favoriser l'établissement d'une royauté. En

voyant le degré d'anarchie où était tombé le Gouvernement de Juarez, ils avaient jugé le moment venu de faire appel au sentiment de la nation, fatiguée comme eux de l'état de dissolution dans lequel s'épuisaient ses ressources. Nous n'avons pas cru devoir décourager ce suprême effort d'un parti puissant, dont l'origine est bien antérieure à notre expédition; mais, fidèles à des maximes de droit public qui nous sont communes avec les États-Unis, nous avons déclaré que cette question relevait uniquement du suffrage du peuple mexicain. ¶ La pensée du Gouvernement de l'Empereur a été définie par Sa Majesté elle-même, dans une lettre adressée au Commandant en chef de notre armée, après la prise de Puebla: ¶ „Notre but, vous le savez, disait l'Empereur, n'est pas d'imposer aux Mexicains un gouvernement contre leur gré, ni de faire servir nos succès au triomphe d'un parti quelconque. Je désire que le Mexique renaisse à une vie nouvelle, et que, bientôt régénéré par un Gouvernement fondé sur la volonté nationale, sur les principes d'ordre et de progrès, sur le respect du droit des gens, il reconnaisse, par des relations amicales, devoir à la France son repos et sa prospérité.“ ¶ Le peuple mexicain s'est prononcé. L'Empereur Maximilien a été appelé par le vœu du pays. Ce Gouvernement nous a paru de nature à ramener la paix à l'intérieur et la bonne foi dans les relations internationales. Nous lui avons accordé notre appui. ¶ Nous sommes donc allés au Mexique pour y exercer le droit de guerre, que M. Seward nous reconnaît pleinement, et non en vertu d'un principe d'intervention sur lequel nous professons la même doctrine que les États-Unis. Nous y sommes allés, non pour faire du prosélytisme monarchique, mais pour obtenir les réparations et les garanties que nous avons dû réclamer, et nous appuyons le Gouvernement qui s'est fondé avec le concours des populations, parce que nous attendons de lui la satisfaction de nos griefs, ainsi que des sécurités indispensables pour l'avenir. ¶ Comme nous ne recherchons ni un intérêt exclusif ni la réalisation d'une pensée ambitieuse, notre vœu le plus sincère est de rapprocher, autant que possible, le moment où nous pourrons, avec sûreté pour nos nationaux et avec dignité pour nous-mêmes, rappeler ce qui reste dans ce pays du corps d'armée que nous y avons envoyé. Ainsi que je vous l'ai dit dans la dépêche à laquelle répond la communication de M. Seward, il dépend baucoup du Gouvernement fédéral de faciliter à cet égard l'accomplissement du désir qu'il nous exprime. La doctrine des États-Unis reposant, ainsi que la nôtre, sur le principe de la volonté nationale, n'a rien d'incompatible avec l'existence d'institutions monarchiques; et M. le président Johnson, dans son message, comme M. Seward dans sa dépêche repousse toute idée de faire de la propagande, même sur le continent américain en faveur des institutions républicaines. Le cabinet de Washington entretient des relations amicales avec la cour du Brésil, et il ne s'était pas refusé à nouer des rapports avec l'empire mexicain en 1822. Aucune maxime fondamentale, aucun précédent de l'histoire diplomatique de l'Union ne crée donc un antagonisme nécessaire entre les États-Unis et le régime qui a remplacé au Mexique un pouvoir qui a continuellement et systématiquement violé ses obligations les plus positives envers les autres peuples. ¶ M. Seward semble faire un double reproche au Gouvernement de l'Empereur Maximilien des difficultés qu'il rencontre et du concours qu'il emprunte à des forces étrangères.

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Mais les résistances contre lesquelles il s'est vu obligé de lutter n'ont rien de particulier à la forme des institutions. Il subit le sort assez ordinaire des pouvoirs nouveaux, et son malheur est surtout d'avoir à supporter les conséquences des désordres qui se sont produits sous les gouvernements antérieurs. Quel est en effet celui de ces gouvernements qui n'ait pas trouvé des compétiteurs armés et qui ait joui en paix d'une autorité incontestée? Les révoltes et les guerres intestines étaient alors l'état normal du pays, et l'opposition faite par quelques chefs militaires à l'établissement de l'Empire n'est que la suite naturelle des habitudes d'indiscipline et d'anarchie dont les pouvoirs auxquels il succède ont été les victimes. ¶ Quant à l'appui que le Gouvernement mexicain reçoit de notre armée et que lui prêtent aussi des volontaires belges et autrichiens, il ne porte aucune atteinte ni à l'indépendance de ses résolutions, ni à la parfaite liberté de ses actes. Quel est l'état qui n'ait pas eu besoin d'alliés, soit pour se constituer, soit pour se défendre? Et les grandes puissances, telles que la France et l'Angleterre, par exemple, n'ont-elles pas entretenu presque constamment des troupes étrangères dans leurs armées? Lorsque les États-Unis ont combattu pour leur émancipation, le concours donné par la France à leurs efforts a-t-il fait que ce grand mouvement populaire cessât d'être véritablement national? Et dira-t-on que la lutte contre le Sud n'était pas également une guerre nationale parce que des milliers d'Irlandais et d'Allemands combattaient sous les drapeaux de l'Union? On ne saurait donc contester le caractère du Gouvernement mexicain et considérer comme un motif de désaffection à son égard ni les résistances qu'il doit vaincre pour se consolider, ni les troupes étrangères qui l'auront aidé à faire renaître la sécurité et l'ordre dans un pays si longtemps et si profondément bouleversé. ¶ Une pareille entreprise est assurément digne d'être appréciée par une nation aussi éclairée que les États-Unis, particulièrement appelée à en recueillir les avantages. A la place d'un pays sans cesse troublé, qui leur a donné tant de sujets de plaintes et auquel ils ont été eux-mêmes obligés de faire la guerre, ils trouveraient une contrée pacifiée, offrant désormais des gages de sécurité et de vastes débouchés à leur commerce. Loin de léser leurs droits ou de nuire à leur influence, c'est surtout à eux que doit profiter le travail de réorganisation qui s'accomplit au Mexique. ¶ En résumé, M. le Marquis, les États-Unis reconnaissent le droit que nous avions de faire la guerre au Mexique; d'autre part, nous admettons, comme eux, le principe de la non-intervention. Cette double donnée renferme, à ce qu'il me semble, les éléments d'un accord. Le droit de faire la guerre, qui appartient, ainsi que le déclare M. Seward, à toute nation souveraine, implique le droit d'assurer les résultats de la guerre. Nous ne sommes point allés au delà de l'Océan uniquement dans l'intention d'attester notre puissance et d'infliger un châtiment au Gouvernement mexicain. Après une série d'inutiles réclamations, nous devions demander des garanties contre le retour des violences dont nos nationaux avaient si cruellement souffert, et ces garanties, nous ne pouvions les attendre d'un Gouvernement dont nous avions constaté, en tant de circonstances, la mauvaise foi. Nous les trouvons aujourd'hui dans l'établissement d'un pouvoir régulier, qui se montre disposé à tenir honnêtement ses engagements. Sous ce rapport, nous espérons que le but légitime de

notre expédition sera bientôt atteint, et nous nous efforçons de prendre avec l'Empereur Maximilien les arrangements qui, en satisfaisant nos intérêts et notre dignité, nous permettent de considérer comme terminé le rôle de notre armée sur le sol mexicain. L'Empereur m'a donné ordre d'écrire dans ce sens à son Ministre à Mexico. ¶ Nous rentrons, dès lors, dans le principe de la non-intervention, et du moment où nous l'acceptons comme règle de notre conduite, notre intérêt, non moins que notre honneur, nous commande d'en réclamer de tous l'égale application. Confiants dans l'esprit d'équité qui anime le Cabinet de Washington, nous attendons de lui l'assurance que le peuple américain se conformera à la loi qu'il invoque, en maintenant à l'égard du Mexique une stricte neutralité. Lorsque vous m'aurez informé de la résolution du Gouvernement fédéral à ce sujet, je serai en mesure de vous indiquer le résultat de nos négociations avec l'Empereur Maximilien pour le retour de nos troupes. ¶ Je vous invite à remettre à M. Seward une copie de cette dépêche, en réponse à sa communication du 6 décembre dernier, en le priant de vouloir bien la placer sous les yeux de M. le Président Johnson, et je m'en rapporte avec confiance, pour l'examen des considérations qu'elle renferme, aux sentiments traditionnels rappelés dans la note de M. le secrétaire d'État de l'Union. ¶ Recevez, etc. *Drouyn de Lhuys.*

No. 2182. Frankreich, 9. Jan. 1866.

No. 2183.

FRANKREICH. — Min. d. Ausw. an den Ges. d. Verein. St. in Paris. — Decrete d. Kaisers Maximilian üb. Einwanderung u. Colonisation in Mexico betr. —

Paris, le 15 janvier 1866.

Monsieur, vous m'avez fait l'honneur de me communiquer, dans le courant du mois de novembre, une lettre adressée à M. le secrétaire d'État Seward, par l'attorney général des États-Unis, au sujet des décrets rendus par l'Empereur Maximilien, concernant l'immigration et la colonisation au Mexique. Ce document étant l'appréciation d'actes intérieurs du Gouvernement mexicain, je ne pouvais le recevoir qu'à titre de renseignement. C'est ce que j'eus alors le soin de vous déclarer, en déclinant toute explication sur des mesures auxquelles le Gouvernement de l'Empereur était absolument étranger. En vous accusant donc réception, suivant votre désir, de votre lettre du 22 novembre, je crois devoir constater la réponse verbale que je me suis trouvé dans le cas d'y faire. ¶ Agréez, etc.

Drouyn de Lhuys.

No. 2183. Frankreich, 15. Jan. 1866.

No. 2184.

VEREINIGTE STAATEN von AMERIKA. — Ges. in Paris an den Kaiserl. Französ. Min. d. Ausw. — Antwort auf dessen vorstehende Note. —

Paris, le 16 janvier 1866.

Monsieur, j'ai eu l'honneur de recevoir la communication de Votre Excellence en date du 15 de ce mois, relativement à certains décrets récemment promulgués au Mexique, au sujet de l'immigration et de la colonisation. Votre Excellence refuse toute explication au sujet des passages inadmissibles d'un de

No. 2184. Vereinigte Staaten, 16. Jan. 1866.

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ces décrets, sur lesquels j'ai eu l'honneur d'appeler son attention par une note en date du 22 novembre dernier, par le motif qu'il s'agissait de mesures d'administration intérieure dont le Gouvernement de l'Empereur n'avait point à s'occuper. ¶ Bien que la ligne qui sépare la responsabilité du Gouvernement impérial de celle de l'organisation politique qu'il a établie (*planted*) au Mexique, soit tracée assez indistinctement, je suis certain que mon Gouvernement apprendra avec satisfaction que la France, qui a été une des premières Puissances à signaler l'esclavage à l'exécration de l'humanité, décline toute responsabilité au sujet de la tentative (quoique faite sous la protection de son drapeau) de rétablir cette institution dans un pays qui l'avait expressément flétrie et abolie. ¶ Je profite de cette occasion, etc. *John Bigelow.*

No. 2185.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Den vorstehenden Notenwechsel über die Colonisations-Decrete des Kaisers Maximilian betr. —

Paris, le 25 janvier 1866.

No. 2185. Frankreich, 25. Jan. 1866.

Monsieur le Marquis, M. le Ministre des États-Unis avait désiré que la communication qu'il m'avait faite de la lettre de l'attorney général à M. Seward, relative aux décrets de l'Empereur Maximilien, concernant l'immigration et la colonisation au Mexique, fût constatée par écrit. J'avais, en conséquence, adressé à M. Bigelow un accusé de réception. Il a cru devoir y répondre par la lettre dont vous trouverez ci-joint copie. Il m'eût été facile de lui répliquer à mon tour en discutant sa réponse. Je n'ai pas jugé qu'il fût nécessaire de le faire. Je me suis borné à relever dans les explications verbales que j'ai échangées à ce propos avec M. le Ministre des États-Unis deux points qu'il ne m'était pas permis de laisser sans observation. J'ai dit d'abord à M. Bigelow que je n'admettais pas l'expression de *planted*, appliquée au rôle du Gouvernement français dans les événements qui ont modifié le régime politique du Mexique. Il connaissait assez les causes qui nous avaient conduits en ce pays pour que je n'eusse pas à les lui rappeler, et quant à l'organisation actuelle de cet État, c'était le peuple mexicain qui y avait pourvu lui-même selon ses vœux et ses intérêts. ¶ En second lieu, j'ai fait remarquer à M. le Ministre des États-Unis que j'avais décliné toute discussion avec lui sur les décrets de l'Empereur Maximilien lorsqu'il était venu m'en entretenir, qu'il n'était donc pas autorisé à m'attribuer une opinion quelconque à ce sujet, pour en prendre acte vis-à-vis de moi, ainsi qu'il semblait vouloir le faire dans la dernière phrase de sa lettre. J'ai ajouté que, s'il tenait cependant à connaître ma manière de voir sur la question, je n'hésitais pas à lui dire que les mesures de l'Empereur Maximilien si vivement incriminées n'avaient pas, à notre avis, le caractère et le but qu'on leur attribuait. Il m'a paru bon de ne pas vous laisser ignorer de quelle manière s'était clos cet incident. ¶ Recevez, etc.

Drouyn de Lhuys.

No. 2186.

FRANKREICH. — Min. d. Ausw. an den Kais. Ges. in Washington. — Die Beschwerden der Regierung der Verein. St. über mehrere Regierungsmassregeln des Kaisers Maximilian betr. —

Paris, le 25 janvier 1866.

No. 2186. Frankreich, 25. Jan. 1866.

Monsieur le Marquis, les journaux américains nous apportent des extraits de publications diplomatiques faites aux États-Unis, où sont relatées des conversations que j'ai eues avec M. Bigelow au sujet de certaines mesures adoptées par le Gouvernement de l'Empereur Maximilien. Les observations de M. le Ministre des États-Unis et mes réponses portent notamment sur les décrets du Gouvernement mexicain qui sont relatifs à l'admission des noirs et à la colonisation, à la répression du brigandage et à la situation faite à la famille Iturbide. Je n'ai pas sous les yeux le texte officiel et complet des documents américains; c'est donc sous la réserve des réflexions ultérieures qu'ils peuvent me suggérer que je crois utile de préciser le sens des explications auxquelles les questions que je viens de rappeler ont donné lieu entre M. Bigelow et moi. Ces explications sont, du reste, consignées dans la dépêche que j'ai eu l'honneur de vous écrire le 29 novembre dernier*), et je me bornerai à résumer, en m'y référant, la partie de cette dépêche qui s'y rapporte. ¶ Lorsque M. le Ministre des États-Unis est venu me faire part des appréciations du Cabinet de Washington, j'ai dû lui déclarer que je déclinais toute controverse officielle sur les actes d'un Gouvernement étranger, agissant dans sa pleine indépendance, et que je ne pourrais recevoir qu'à titre de simple renseignement les communications qu'il voudrait me faire à cet égard. ¶ Il ne pouvait point nous convenir, en effet, d'accepter la responsabilité de résolutions qui émanaient de la libre initiative du Gouvernement mexicain. Admettre une pareille discussion autoriserait à dire, contrairement à toutes nos déclarations et à l'attitude que nous avons rigoureusement observée, que nous nous considérons nous-mêmes comme investis au Mexique des droits de la souveraineté. Or, l'appui que nous prêtons à l'Empereur Maximilien et à la nation mexicaine a précisément pour but de les aider à constituer, comme ils l'entendent, un pouvoir indépendant et responsable de ses actes. Cette réserve bien nettement établie, j'ai pu faire observer à M. Bigelow, dans la forme d'une conversation ordinaire, que les mesures signalées par lui étaient d'ordre purement administratif, et qu'elles ne me paraissaient constituer aucune de ces dérogations exceptionnelles aux principes généraux qui peuvent peut-être autoriser parfois un Gouvernement à s'immiscer dans les affaires intérieures d'un pays voisin. Chaque État règle, comme bon lui semble, l'admission sur son territoire des émigrants, noirs ou blancs, et les conditions de colonisation de son sol. Il est évident que ces conditions, offertes à des étrangers, ne s'appliquent qu'à des personnes qui les ont acceptées librement. De même le Gouvernement mexicain n'a fait qu'user d'un droit qui lui appartenait incontestablement en déclarant qu'à ses yeux la guerre civile n'existait plus sur son territoire;

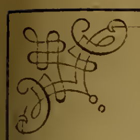
*) No. 2177.

No. 2186. Frankreich, 25. Jan. 1866.

et, cessant de reconnaître à des bandes errantes le caractère d'un belligérant, il a pu édicter contre elles les pénalités sévères qu'en tout pays on a appliquées à la répression du brigandage. Encore moins, selon moi, pouvait-il être interpellé sur un acte assignant dans l'État un rang quelconque à telle ou telle famille. En tout cas, la portée de ces mesures ne dépassait pas les frontières du Mexique, et elles ne me paraissaient dès lors constituer aucun grief dont un Gouvernement étranger pût demander compte. Si cependant on en jugeait autrement à Washington, je comprenais qu'on éprouvât quelque incertitude sur les moyens de faire parvenir à qui de droit les réclamations qu'on s'y croyait autorisé à formuler. Mais, en définitive, parce qu'il ne convenait pas au Gouvernement fédéral de reconnaître comme existant en droit le Gouvernement de fait de l'Empereur Maximilien, et que, d'autre part, il lui paraissait dérisoire de s'adresser au pouvoir qu'il considérait comme légal, mais qui avait disparu en fait, je ne pouvais pas admettre comme conséquence qu'on fût fondé à s'en prendre à nous pour sortir d'embarras, et à nous demander des explications sur des actes émanant de l'autorité souveraine d'un gouvernement étranger. ¶ Recevez, etc.

Drouyn de Lhuys.

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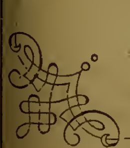
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No. 2187.*)

ITALIEN. — Min. d. Ausw. an den in ausserordentlicher Mission an den heil. Stuhl abges. Commandeur Vegezzi. — Allgemeine Instructionen für die bevorstehenden Unterhandlungen. —

No. 2187. Italien, 25. März 1865.

I. Besetzung der vacanten Bischofssitze. Im Königreich Italien sind die erzbischöflichen und bischöflichen Sitze, welche in der Beilage No. I verzeichnet sind, vacant. ¶ Zu dem Uebereinkommen zwischen der Königlichen Regierung und dem heiligen Stuhle bei Besetzung der vacanten Sitze muss man die nöthigen Erkundigungen über die Zahl und den Umfang der Diöcesen des Königreichs einziehen. ¶ Im Falle der heilige Stuhl sich auf keinen der Vorschläge einlassen sollte, wäre keine Veranlassung vorhanden, irgend ein Abkommen betreffs der vacanten Sitze zu treffen. ¶ Eine neue Eintheilung der Diöcesen des Königreichs ist aus ökonomischen und politischen Gründen von grösster Evidenz erforderlich. Es genügt daran zu erinnern, dass im Königreich Italien auf eine katholische Bevölkerung von etwa 21 Millionen 44 Erzbischofssitze und 183 Bischofssitze kommen, im Ganzen 227 Sitze, während z. B. in Frankreich mit Einschluss von Algerien und den Colonien für 36 Millionen Katholiken nur 17 Erzbischöfe und 71 Bischöfe, im Ganzen 88 Sitze vorhanden sind. Ferner genügt es zu erwähnen, dass in Umbrien auf eine Bevölkerung von 492,829 Einwohnern 17 Diöcesen mit einem Erzbischofe und 16 Bischöfen kommen, während in der Lombardei eine Bevölkerung von 1,169,312 Einwohnern eine einzige Diöcese bildet, die von Mailand. ¶ Wenn es gelingen sollte, durch dieses Argument den wünschenswerthen Eindruck zu machen, so hätte die Kgl. Regierung vorzuschlagen, eine Diöcesan-Eintheilung nach dem Masstabe zu treffen, dass ein Erzbischofs- oder Bischofssitz sich in jedem administrativen Centralpunkt befände, und dass diejenigen Sitze beibehalten werden, welche durch berühmte geistliche Traditionen sich auszeichnen, oder deren Nothwendigkeit auf eigenthümlichen örtlichen Verhältnissen beruht. ¶ Würde solche Eintheilung angenommen, so wäre es ganz und gar dem heil. Stuhl zu überlassen, die Metropolitan-Diöcesen zu bestimmen. ¶ Da aber nicht zu hoffen ist, dass man jetzt sich definitiv hierüber verständige, so kann die Kgl. Regierung die Besetzung der vacanten Sitze nur nach dem oben erwähnten Plane zulassen. ¶ So wird sie denn erlauben, dass der Titular eines zu unterdrückenden Sitzes auf einen derjenigen Sitze versetzt werde, welche dazu bestimmt sind, erhalten zu werden. ¶ Der Bevollmächtigte der Kgl. Regierung weiss, welche Vorschläge wir zur Besetzung der bedeutendsten vacanten Sitze zu machen haben. Aus der Aufnahme, die der heil. Vater solchen Vorschlägen angedeihen lassen wird, wird

*) Die nachfolgenden Actenstücke in Deutscher Sprache sind Uebersetzungen aus dem Italienischen Original der „*Documenti Diplomatici, presentati al Parlamento*, 1865". — Die Nummern 2205*, 2206 und 2227 finden sich nicht in dieser officiellen Sammlung, sind aber der Zusammengehörigkeit wegen eingeschaltet.

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man den Massstab nehmen für die anderen, welche noch nöthig sein dürften; doch muss hervorgehoben werden, dass solche Vorschläge die Befürchtung des heiligen Vaters ausschliessen, die Kgl. Regierung werde Leute präsentiren, die durchaus nicht annehmbar seien. ¶ Der heilige Stuhl wird keine Schwierigkeiten machen, die Präsentation Seitens der Kgl. Regierung für die vacanten Sitze in den alten Provinzen und in der Lombardei anzunehmen; wohl aber ist vorherzusehen, dass derselbe Schwierigkeiten betreffs der andern Provinzen machen wird, besonders derer, die früher unter der Oberhoheit des Papstes gestanden. In dieser Beziehung kann die Kgl. Regierung kein Abkommen genehmigen, das nicht die thatsächliche Anerkennung des Königreichs Italien und die Uebertragung aller Rechte und Privilegien auf die Person Victor Emanuel II. in sich schliesst, welche den Fürsten und Regierungen zustanden, deren Nachfolger er geworden ist. Aber da dem heiligen Vater gegenüber sich nicht erst die Gründe geltend machen lassen, welche aus den Volksabstimmungen hergeleitet werden, und es eben so wenig gut thun würde, dieser Specialfrage die grosse politische Streitfrage beizumischen, welche wegen der weltlichen Gewalt des Papstes in Italien die Gemüther bewegt, so wird es nöthig sein, in diesem Punkte irgend ein Auskunftsmittel versöhnlicher Art ausfindig zu machen. ¶ Ausgehend von dem Plan der Trennung der Kirche vom Staate, den die Kgl. Regierung schon so lange verfolgt und der, vollständig durchgesetzt, der Civil-Behörde jede Einmischung in die Besetzung der Bischofs-Sitze nehmen würde, wäre folgender Modus zweckmässig, welcher als äusserte Concession vorzuschlagen wäre, zu der sich die Kgl. Regierung in der gegenwärtigen Lage der Dinge verstehen könnte, und welcher ein Beweis des loyalen Vornehmens der Regierung sein würde, in jeder Weise den Rechten und Privilegien zu entsagen, die der Freiheit der Kirche im Wege stehen, sobald die Kirche ihrerseits geneigt wäre, dem zu entsagen, was jetzt als ein Hinderniss für die Freiheit des Staates auftritt. ¶ Die Kgl. Regierung würde für dieses Mal und mit Vorbehalt künftiger Stipulationen dem ausdrücklichen Rechte auf Ernennung zu den vacanten Stellen entsagen, das sie in der Lombardei, in den parmesanischen, den neapolitanischen und sicilianischen Provinzen hat und das sie mit stichhaltigen Argumenten auch in Toscana beanspruchen könnte, wie auch in denjenigen Provinzen, welche früher einen Theil des ersten Königreichs Italien ausmachten, gestützt auf Art. 4 des Concordats vom 13. Sept. 1803, geschlossen zwischen dem heiligen Stuhl und der Italienischen Republik. Sie würde sich auf die einfache Präsentation oder Empfehlung beschränken, wie sie früher im Königreich Savoyen üblich war, wogegen bei der Präconisation der zu den vacanten Sitzen Vorgeschlagenen in den betreffenden Bullen Erwähnung des Königs Victor Emanuel II. geschehen müsste und die Sitze ohne irgend einen Ausdruck, welcher an die vorhergenannten Staaten erinnert, zu bezeichnen wären.

II. Bischöfe die von ihren Sitzen abwesend sind. In der Beilage No. II sind die Bischöfe der verschiedenen Sprengel specificirt, die von ihren Sitzen abwesend sind, mit Hervorhebung aller derer welche nur auf Befehl der Regierung von denselben entfernt wurden, derer die sich auf eigenen Antrieb zurückzogen, derer die im Königreich blieben, sowie derer die ausser Landes gingen. ¶ Die allgemeine Ursache dieser Thatsache ist das Widerstreben,

welches solche Prälaten zeigten, die neuen Bedingungen des Staates anzunehmen und seine Gesetze zu beobachten, sowie bei vielen die Animosität, welche ihre Diöcesanen gegen sie empfanden. ¶ Die Regierung des Königs beschäftigte sich schon lange mit einer so abnormen Thatsache und noch ehe sie von einigen Prälaten selbst darum ersucht ward, strebte sie einen Modus zu finden, um diesem Uebelstand ein Ziel zu setzen. Sie nahm die Massregel an, alle Bischöfe frei zurückkehren zu lassen, die im Königreich residiren und darum nachgesucht und erklärt hatten, sei es in einer Adresse an die Regierung oder durch einen Hirtenbrief an ihre Gemeinden, dass sie die Gesetze des Königreichs beobachten und beobachten lassen wollten. Die Regierung vertraute darauf, dass die Rückkehr dieser Bischöfe auf diejenigen einwirken würde, welche im Auslande lebten und dazu führen würde, dass auch diese wieder auf ihre Sitze zurückgeführt werden könnten. Aber bald konnten solche Rücksichten sich nicht geltend machen gegenüber den Klagen, welche die Local-Autoritäten gegen jene Bischöfe erhoben, die damit drohten, dass die Rückkehr derselben einen Aufstand der Bevölkerung hervorrufen würde und die Sicherheit der betreffenden Prälaten selbst schwer gefährden könnte. So konnte die Regierung kaum durchsetzen, dass der Erzbischof von Trani und Nazareth auf seinen Sitz zurückkehrte, während die Anstrengungen, welche viele andere schon lange gemacht hatten, um zurückzukehren, vergeblich blieben, besonders der Bischöfe von Sessa, Teramo, Avellino, Trapani und des Cardinals Erzbischof von Fermo, Anstrengungen, von denen der heilige Stuhl Kunde haben musste und die, hinsichtlich des Cardinals von Fermo, mehrere Male erneuert wurden, aber immer am Widerstande der Localbehörden scheiterten, welche behaupteten, sie könnten nicht für die Unverletzlichkeit der Prälaten bürgen. ¶ Die Regierung des Königs ist sich bewusst, bei dieser Angelegenheit mit grösster Mässigung aufgetreten zu sein, die sie auch in dem Falle nicht verliess, wo gerichtliche Proceduren von den competenten Behörden gegen Ordinarii, Parochi und andre Priester, weltliche und Ordensgeistliche, angestellt wurden, welche angeklagt waren, die Gesetze des Staates verletzt zu haben. In der That sorgte die Regierung dafür, dass diesen Männern die grössten Rücksichten erwiesen wurden; in vielen Fällen wurden die Processe unterbrochen oder blieben ohne Erfolg, und war es der Sorge der Regierung zu verdanken, dass die Wirksamkeit der neuesten Kgl. Amnestie auf alle Processe, die gegen Geistliche schwebten, ausgedehnt wurde. Dahin sind freilich nicht die Massregeln zu rechnen, welche in den neapolitanischen Provinzen zur Unterdrückung des Brigantaggio getroffen wurden, da dieselben durch ein besonderes Ausnahmegesetz geregelt wurden, das durch die Lage jener Provinzen nothwendig geworden war, weil jeder Staat das Recht hat, für seine eigne Vertheidigung und Sicherheit zu sorgen. ¶ Die Regierung des Königs hat nie aufgehört, sich in den Grenzen der Mässigung zu halten, die sie sich als Richtschnur ihres Benehmens vorgesetzt hat, und gab mehrere Beweise davon, indem sie sich der Pression entzog, welche im Parlament und ausserhalb desselben ausgeübt wurde, um sie zu strengen Ausnahmemassregeln gegen die Geistlichkeit zu veranlassen. Aber man hätte ihr auch diese Mässigung zum Verdienste anrechnen und die Lage erwägen sollen, in der sie sich inmitten des Parteihaders befand. Das geschah leider nicht, und täglich

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wurden die Angriffe der Journale heftiger, welche vorgaben, die Interessen des heiligen Stuhles zu vertheidigen, dessen Schutz und dessen Aufmunterung sie zu geniessen behaupteten, so dass solchen Ausfällen gegenüber die Regierung häufig der Schwäche angeklagt wurde, während sie an vielen Orten die öffentliche Sicherheit durch die Masslosigkeit jener Journale und eines Theils der Geistlichkeit compromittirt sah. ¶ Es ist der feste Vorsatz der Regierung des Königs, von diesem Wege nicht abzuweichen und sie möchte Beweise dafür geben, indem sie die abwesenden Bischöfe auf ihre Sitze zurückkehren liesse. Aber sie kann in Rücksicht auf die oben erwähnte Lage des Staates nicht versprechen, dass sie die unmittelbare und gleichzeitige Rückkehr aller jener Prälaten veranstalten werde. Ihrerseits wird sie daran arbeiten, dass einer nach dem andern in möglichst kurzer Frist dort zu seinem Sitze zurückkehre, wo sich von Seiten der Localbehörden nicht allzugrosse Schwierigkeiten erheben. Da müsste denn der heilige Stuhl der Regierung zu Hülfe kommen, um solche Schwierigkeiten zu überwältigen, sei es, indem er den Prälaten, besonders denen, welche sich in Rom befinden, anriethe, ihren Diöcesen und der Regierung gegenüber eine gemässigte Haltung einzunehmen, sowie ohne Widerwillen die obige Erklärung zu geben, sei es, indem er an den versöhnlichen Schritten theilnehme, welche die Regierung ohne Verletzung ihrer Würde und ohne Gefährdung der öffentlichen Ruhe bewilligen kann, und denen sie sich von ganzem Herzen anschliessen würde.

III. Bischöfe, die im Consistorium vom 21. Decbr. 1863 vorgeschlagen wurden. Die Beilage No. III. bringt die Namen der Bischöfe, welche im Consistorium vom 21. Dec. 1863 vorgeschlagen wurden. ¶ Das Document, Beilage IV, enthält die Erklärung in der amtlichen Zeitung des Königreichs Italien v. 23. Dec. desselben Jahres. ¶ Es befindet sich in dieser Lage der Cardinal Enrico Orfei, Bischof von Cesena, vorgeschlagen zum vacanten erzbischöflichen Sitz von Ravenna mit einer päpstlichen Vollmacht von Anfang 1860, der die Regierung der Provinz Aemilia keinen Respect erwies und die später nicht wieder vorgezeigt wurde. ¶ In derselben Lage sind ferner der Priester Paolo Ballerini, präconisirt zum Erzbischofssitz von Mailand, der Priester Carlo Macchi zum Bischofssitz von Crema und Monsignor Pietro Maria Ferrè, Bischof von Crema, präconisirt zum Bischofssitz von Pavia im Consistorium vom 20. Juni 1859, von denen der Letztere, nach jener Epoche, ohne den Titel eines Bischofs von Pavia anzunehmen, den eines Administrators der Kirche von Crema annahm. ¶ Bei der Präconisation der gedachten drei Sitze wurde ein förmlicher Protest im Journal „La Lombardia“ erhoben, welches damals noch das Amtsblatt der Lombardischen Provinzen war und auf die Abnormität des Factums hindeutete, dass der heilige Stuhl jene Sitze auf Vorschlag der Oestreichischen Regierung besetzt hätte, die zu jener Zeit gar nicht mehr die Herrschaft über die Lombardei inne hatte. ¶ Schwierig ist die Lage der Besetzung jener Sitze, besonders weil die meisten darunter nach der Absicht der Kgl. Regierung unterdrückt werden sollen. ¶ Die Lösung dieser Frage hängt grösstentheils von allgemeinen Uebereinkünften ab, die hinsichtlich der Diöcesan-Eintheilung des Königreichs getroffen werden können. ¶ Was die Lombardischen Sitze betrifft, so ist zu bemerken, dass der heilige Stuhl noch nie in einem speciellen Schreiben die

Absicht zu erkennen gab, die Präconisation ins Werk zu setzen, vielmehr immer fortfährt, mit den Capitular-Vicaren von Mailand und Pavia zu correspondiren, indem er dadurch zeigt, dass er sie ohne besondere Clausel oder Reserve anerkennt. ¶ Bei allen diesen schwierigen Punkten muss darauf geachtet werden, dass die Rechte und Convenienzen des Königreichs respectirt werden und dass jede Uebereinkunft gewissermassen das Correlat der Rechte des heil. Stuhles an andern Punkten bilde. ¶ Auf alle Fälle muss die Transaction auf folgenden Grundlagen vorgeschlagen werden:

1. Der heil. Stuhl muss davon abstehen, die Sitze neu zu besetzen, die unterdrückt werden sollen.

2. Zustimmung der Kgl. Regierung zur Besetzung der Sitze von Mailand, Ravenna, Bologna, Pavia und Loreto mit Recanati.

3. Der heil. Stuhl muss davon abstehen, zum Erzbisthum von Mailand den gegenwärtig Präconisirten confirmiren zu wollen.

4. Zustimmung der Kgl. Regierung zur Verleihung der Sitze von Ravenna und Pavia an die Personen der Bischöfe von Crema und Cesena.

5. Reservirung der Ernennung für die Sitze von Bologna und Loreto.

Es dürfte vielleicht von Nutzen sein, für einige der vacant bleibenden Sitze vorzuschlagen, dass ihre Verwaltung demjenigen nächsten Ordinarius übertragen würde, in dessen Diöcese die vacante Diöcese einverleibt wird, falls die neue allgemeine Eintheilung der Diöcesen des Königreichs angenommen wird.

Allgemeine Bemerkungen. Kommt im Laufe der Verhandlungen die Rede auf die politische Frage, so hat sich der Bevollmächtigte der Kgl. Regierung darauf zu beschränken, zuzuhören, ohne irgend einen Gedanken zu äussern, und er übernimmt nur die Verpflichtung, darüber Bericht abzustatten. Sollte sich das Gespräch über die Staatsgesetze in Betreff der geistlichen Polizei verbreiten, so hätte der Bevollmächtigte anzudeuten, dass es die Absicht der Kgl. Regierung ist, sie in der für die Freiheit der Kirche angemessensten Weise zu modificiren, sobald sich eine günstige Gelegenheit dazu bietet, welches nur nach Lösung der politischen Frage geschehen könnte; auch würde er zu verstehen geben, dass in solchem Falle die Regierung auf jedes Privileg und jede exceptionelle Jurisdiction verzichten wollte, wobei jedoch die gehörige Vorsicht anzuwenden wäre, damit der Regierung keine bestimmte Verpflichtung erwüchse. ¶ Auf Erörterungen über Anordnungen in Betreff der religiösen Corporationen und des geistlichen Patrimoniums soll der Bevollmächtigte der Regierung sich nicht einlassen, sondern sich vielmehr ans Allgemeine halten und auf die älteren und neueren Beispiele anderer katholischer Staaten hinweisen, ohne jedoch zu unterlassen, die specielle ökonomische Lage des Königreichs und den Stand der in ganz Italien herrschenden Meinungen zu berühren.

No. 2188.

ITALIEN. — Min. d. Ausw. an den Commandeur Vegezzi. — Nähere Auskunft auf gewisse Fragen des Letzteren. —

Turin, 29. April 1865.

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Herr Commandeur! Ich werde mich darauf beschränken, Ihnen die Gedanken der Königl. Regierung über die verschiedenen Punkte, welche Sie in Ihrem werthen Schreiben vom 24. d. M. näher bezeichnen und auf welche Sie mit Recht eine baldige Antwort wünschen, in klaren Worten mitzutheilen. ¶ Ich muss vorausschicken, dass, nachdem Ihre in Ihrem zweiten Schreiben nach einer Unterredung mit dem Cardinal Antonelli enthaltenen Mittheilungen der Regierung über die Absichten des heiligen Stuhles genauere Aufklärung verschafft haben, diese in den Stand gesetzt wurde, über einige Punkte, rücksichtlich deren sie vorher vielleicht zu Vergleichen und Transactionen geneigter gewesen wäre, bestimmte Entschlüsse zu fassen. ¶ Sodann muss ich wiederholen, dass die von Ihnen eingeleiteten Verhandlungen ihren ursprünglichen Charakter bewahren und, in ihren bestimmten Grenzen gehalten, nicht von folgenden beiden Hauptnormen abweichen: man halte sich von jeder politischen Frage fern und verhüte, dass die Volkssouveränetät, die Unabhängigkeit der weltlichen Macht und das öffentliche Recht der Geistlichkeit des Königreichs in irgend einer Weise auch nur im Geringsten beeinträchtigt werden. ¶ Nachdem ich dieses vorausgeschickt, gehe ich zur Beantwortung der von Ihnen angedeuteten Punkte über, wobei ich der Kürze halber die in Ihrem Schreiben beobachtete Reihenfolge beibehalte.

I. Im Princip wird die Rückkehr der von ihren Diöcesen abwesenden Bischöfe zugelassen.

II. Wird die Rückkehr *sensim sine sensu* zugelassen. Diejenigen Bischöfe, deren Rückkehr einstimmig beschlossen worden ist, stellen an den König oder an den Minister-Siegelbewahrer ein Bittgesuch. Aus diesem Gesuch wird man ersehen, ob sie dazu vom heiligen Stuhle Befehl erhalten haben.

III. Ehe die Königl. Regierung bestimmte Pflichten übernimmt, behält sie sich das Recht vor, die Liste der Bischöfe zu prüfen, deren Rückkehr ohne Nachtheil erfolgen kann; diese Liste händigen Sie dem Cardinal Antonelli ein.

IV. Die Königl. Regierung will sich volle Freiheit der Entschliessung über diejenigen Bischöfe wahren, deren Rückkehr zu den Sitzen aus Gründen der öffentlichen Ordnung bedenklich erscheint. Doch wird dem heiligen Stuhle zugestanden, seinerseits Erkundigungen darüber einzuziehen und Ihnen das Resultat derselben mitzutheilen, damit man hier aufs schnellste benachrichtigt werden und sich bei den definitiven Entschliessungen danach richten kann. Ein anderer Weg der Verhandlungen zwischen dem heiligen Stuhle und der Königl. Regierung als der durch Ihre Person angebahnte kann vor der Hand nicht stattfinden.

V. Als *conditio sine qua non* müssen Sie den Hirtenbrief fordern, in

welchem die Bischöfe die Rückkehr zu ihren Sitzen anzeigen und den Gesetzen Gehorsam zu leisten versprechen. Ein solcher Act wird bewirken, dass das Volk die Rückkehr der Bischöfe willig annimmt und die Regierung dieselbe auch den Widersachern gegenüber rechtfertigen kann. Es versteht sich von selbst, dass die Hirtenbriefe kurz und bündig ohne jede Anspielung auf die Vergangenheit sein müssen und die von Ihnen mit Recht zurückgewiesene Phrase nicht enthalten dürfen.

VI. Man wünscht eine ausdrückliche Erklärung darüber, welche Folgen die Drohung haben könnte, dass die Bischöfe ihre Diöcesen verlieren würden, wenn sie nicht zurückkehrten.

VII. Man wünscht zu wissen, welchen Cardinalbischof des Königreichs man für den Mailänder Sitz designiren würde.

VIII. Im Königreich könnte der gegenwärtig zum Mailänder Sitze präconisirte Bischof kein Bisthum erhalten.

IX. Der Sitz zu Crema soll aufgehoben werden. Man könnte die Ernennung Macchi's für einen andern erledigten Sitz, welcher beibehalten werden soll, z. B. für den zu Como, bewilligen.

X. Die für die Bischöfe von Bologna und Loreto vorgeschlagnen Verfügungen werden angenommen.

XI. u. XII. Dass der Sitz von Sarsina dem Bischof von Bertinoro zur Verwaltung gegeben wurde, wusste man und man stimmt dem bei, dass genannter Sitz in diesem Zustande verbleibe, so lange der gegenwärtige Titularbischof leben bleibt; man wusste jedoch nicht, dass der heilige Stuhl auch die Sitze von Cervia, Orvieto und Sinigaglia besetzt hatte. Hierüber wird baldige Auskunft gewünscht. Es handelt sich also nicht mehr um acht in den ehemals päpstlichen Provinzen schon besetzte Sitze, sondern um elf, unter welchen nach dem Plane der Regierung nur fünf beizubehalten wären. Hiernach kann von den früher aus Gründen der Mässigung oder Transaction vorgeschlagenen Combinationen nicht mehr die Rede sein. Es muss deshalb erklärt werden, dass die Regierung die Besetzung derjenigen Sitze nicht gestatten kann, welche aus Gründen der Mässigung oder Transaction in dem vorhergehenden Verzeichniss vom 27. dieses M. vorgeschlagen wurden, weil man diese Sitze bei einer neuen Eintheilung der Diöcesen abschaffen oder vereinigen müsste; dass sie damit einverstanden ist, dass der heilige Stuhl diejenigen zu andern beizubehaltenden Sitzen beruft, welche vorher zu Sitzen ernannt waren, die aufgehoben werden sollen; dass der heilige Stuhl zu diesem Zwecke fortan zu denjenigen Vereinigungen schreiten könnte, über welche sie bereits im Princip einen Plan gefasst hätte. Hierbei könnte man, um die Angemessenheit des Abkommens zu beweisen, andeuten, dass, indem man die drei in Umbrien vacanten Diöcesen von Orvieto, Nocera und Città di Castello vereinigte, eine Diöcese entstehen würde, welche nicht viel mehr als 100,000 Einwohner zählte, und so bei den übrigen.

XIII. Man lässt es zu, dass fortan die Ernennung für alle Bisthümer geschehe, für welche die Einwilligung von Seiten der Königl. Regierung vorhanden ist, mit Vorbehalt der über die Persönlichkeiten eingezogenen Erkun-

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digungen und der Frage über den Inhalt der Bullen, welche in den Instructionen erwähnt werden.

XIV. Es ist nicht zulässig, dass unterdessen die Ernennung für irgend welche Bisthümer erfolge, die die Regierung nicht beibehalten will. Die Regierung kann den Plan einer neuen Eintheilung der Diöcesen nicht fallen lassen.

XV. In Uebereinstimmung mit dem in den Nummern XI und XII Mitgetheilten soll der heilige Stuhl schnell die nöthigen Schritte thun, um die Vereinigung der Diöcesen zu bewirken, und die Grundzüge dazu bestimmen. Hierdurch wird Gelegenheit zu schnellerer und leichterer Ausgleichung für die in den ehemaligen päpstlichen Provinzen besetzten Diöcesen gegeben.

XVI. Während man nicht zweifelt, dass der heilige Stuhl in Bezug auf die Lombardei dem Könige von Italien das bewilligen wird, was er dem Kaiser der Franzosen hinsichtlich Nizzas und Savoyens bewilligte, ist es der feste Wille der Königl. Regierung, dass die Rechte und Prärogative der weltlichen Macht in Betreff der Ernennung, Präsentation oder Empfehlung der Bischöfe, für alle Provinzen des Königreichs vollständig gewahrt werden.

XVII. Daraus muss also folgen, dass im Fall der neuen Ernennungen die Vorschläge vom König ausgehen und vom heiligen Stuhle angenommen werden, was aus den bezüglichen Bullen nach den in den Instructionen enthaltenen Worten erhellen muss.

XVIII. Alle Bischöfe müssen den Eid nach einer einzigen Formel, nämlich nach der im Königreich angenommenen, leisten. Es ist kein Grund ersichtlich, weshalb noch eine besondere Formel für die Bischöfe nöthig wäre, da doch der Eid, welchen sie leisten, ein durchaus bürgerlicher Act ist. Die einheitliche Formel wird sich gewiss würdevoller erweisen als die andern, welche nun übersendet worden und welche in den alten und andern Provinzen des Königreichs in Gebrauch waren. Sie werden nöthigenfalls nicht unterlassen zu bemerken, dass in der im Concordat von 1803 festgesetzten Formel kein Vorbehalt von G e h o r s a m g e g e n d e n h e i l i g e n S t u h l enthalten ist.

XIX. Hinsichtlich der Einreichung der Bullen für das Exequatur darf von den durch die Gesetze des Königreichs bestimmten Normen nicht abgewichen werden.

XX. Es wird gestattet, dass jede Diöcese ihr Seminar hat, welches jedoch für die secundären oder classischen Schulen den Gesetzen des Königreichs untergeben sein muss.

XXI. u. XXII. Jede Persönlichkeiten berührende Frage bleibe ausgesetzt, bis die Fragen über Principien erledigt sind. Man wird die gewünschte Liste der zu den Sitzen vorgeschlagnen Bischöfe übersenden, und man wünscht sofort zu wissen, welche vorgeschlagenen Ernennungen vom heiligen Stuhle angenommen wurden.

XXIII. Alle Briefe, deren Inhalt auf diese Verhandlungen Bezug hat, müssen an Sie adressirt werden.

Ich danke Ihnen sowie Ihrem Herrn Collegen für die Einsicht und die Sorgfalt, welche Sie dieser schwierigen Unterhandlung widmen. Selbstver-

ständlich liegt es in den Plänen der Regierung, dass über specielle Punkte so lange kein Vergleich getroffen werden kann, als man sich nicht über die allgemeinen Principien geeinigt hat und hauptsächlich über die von grösserer Wichtigkeit, nämlich über die aufzuhebenden oder zu vereinigenden Diöcesen, über den Inhalt der Bullen, die Besetzung der Sitze in den ehemaligen päpstlichen Provinzen, über den Eid der Bischöfe und die Präsentation der Bullen für das Exequatur. ¶ Aber weil man in Rom im Weigerungsfalle Ansprüche erhebt und Anerbietungen abschlägige Antworten entgegensetzt, so hüten Sie Sich sowohl Gelegenheit zu Ansprüchen als auch zu abschlägigen Antworten zu geben: warten Sie, bis man sich erklärt. ¶ Ich erneuere, etc.

No. 2188. Italien, 29. April 1865.

La Marmora.

No. 2189.

ITALIEN. — Min. d. Ausw. an den Commandeur Vegezzi. — Neue Instructionen für die weiteren Unterhandlungen mit dem heil. Stuhl. —

Turin, 22. Mai 1865.

No. 2189. Italien, 22. Mai 1865

Herr Commandeur! Die Königl. Regierung beauftragt Sie, die mit dem heiligen Stuhle begonnenen Verhandlungen, betreffend die Besetzung der im Königreiche vacanten Bischofssitze, fortzusetzen. — Sie werden Sich in diesen Unterhandlungen an die gesammten Instructionen halten, welche von den Räthen der Krone berathen wurden. Ich vertraue vollkommen Ihrer Weisheit und erfahrenen Umsicht bei der Erfüllung einer so wichtigen Mission und hege den Wunsch, dass es Ihnen gelingen werde, dasjenige Resultat zu erzielen, welches sowohl vom König und seiner Regierung, als auch vom heiligen Stuhle in gleicher Weise gewünscht wird. ¶ Genehmigen Sie, etc.

La Marmora.

Neue Instructionen für den Commandeur Vegezzi.

Die Räthe der Krone haben nach reiflicher Erwägung und Erörterung und Ihrem eigenen gerechten Wunsche entsprechend, beschlossen, Ihnen die definitiven Regeln zu geben, an welche Sie Sich im Verlaufe der Unterhandlungen gefälligst halten und mit welchen Sie die mit dem heiligen Stuhle schwebenden Ausgleichungen in Gemässheit des eigenhändigen Schreibens Seiner Heiligkeit an S. M. den König unterm 6. März dieses Jahres in Uebereinstimmung bringen wollen.

Die Gegenstände, welche diese Ausgleichungen betreffen, sind vorzüglich folgende fünf:

1. Die Rückkehr der Bischöfe, welche von ihren Sitzen fern sind.
2. Die Zulassung der vor diesen Verhandlungen vorgeschlagenen Bischöfe.
3. Die Ernennung zu den andern erledigten Sitzen.
4. Das Exequatur zu den Ernennungsbullen.
5. Der von den Ernannten zu leistende Eid.

No. 2189. Italien, 22. Mai 1865.

Bei jedem dieser Gegenstände wird dem Beauftragten der Königl. Regierung Folgendes zur Richtschnur dienen:

I. Die Regierung des Königs willigt im allgemeinen Princip in die Bedingung der Rückkehr.

II. Sie muss jedoch die Bischöfe, aus deren Rückkehr sie nicht fürchtet, Unannehmlichkeiten entstehen zu sehen, von denen unterscheiden, deren Rückkehr zu ernsten Unordnungen und Nachtheilen Anlass geben könnte, und welche Sie in den Ihnen übersendeten Listen verzeichnet finden.

III. Die Regierung ist bereit, in die Rückkehr der ersteren zu willigen, nur muss diese einzeln, allmählich, in möglichst wenig auffälliger Weise geschehen; ausserdem bestimme man sofort mit Angabe der Namen die Reihenfolge der Rückkehr, oder man einige sich darüber, ob diese Reihenfolge von der Regierung oder vom heiligen Stuhle, welcher jedoch die Regierung vorher davon in Kenntniss zu setzen hätte, entworfen werden soll; schliesslich sei man in der Weise, welche am geeignetsten erscheint, darüber einig, dass diejenigen, welche nicht zurückkehren würden, ihre Diöcese verlieren könnten, wie ihnen in den canonischen Gesetzen angedroht wird.

IV. Es sollen diejenigen Bischöfe verzeichnet werden, von deren Rückkehr Unordnungen zu befürchten sind; mögen beide Parteien die Erkundigungen einziehen, welche man für opportun hält, so wird man, indem man sich die Resultate mittheilt, so weit möglich zu allmählicher Verständigung über den Zweck der zu bewirkenden Rückkehr gelangen.

V. Der Beauftragte wird die andern weniger wichtigen Bedingungen und Modalitäten der Rückkehr in der Weise formuliren und mit Vorsicht revidiren, dass der heilige Stuhl darauf eingehen kann.

VI. Die Königl. Regierung kann die Ernennung des zum Mailänder Sitze Vorgeschlagenen nicht annehmen.

VII. Sie ist bereit, die andern vor den gegenwärtigen Verhandlungen, d. h. vor dem März 1865, vorgeschlagnen Bischöfe vorbehältlich des Exequatur und des Eides zuzulassen.

VIII. Sind die Nachrichten über den im März 1865 Vorgeschlagnen befriedigender Art, so wird sie ebenfalls in seine Zulassung willigen.

IX. Die Regierung hält es für angemessen, dass der Einzug der Vorgeschlagenen in die respectiven Diöcesen nach und nach und zu verschiedenen Zeitpunkten stattfindet, und dass der Einzug der für Bologna und Loreto Vorgeschlagnen bis zuletzt aufgeschoben wird und nicht eher stattfindet, bis man sich die Gewissheit verschafft hat, dass keine ernsten Störungen zu befürchten sind.

X. Die Zugelassenen, welche auf erhaltnen Befehl des heiligen Stuhles ihre Sitze nicht beziehen würden, sind dem durch die canonischen Gesetze bestimmten Stellenverlust ausgesetzt.

XI. In der Reihenfolge der vacanten Sitze ist die Regierung der Ernennung zu folgenden beizustimmen bereit: Turin — Alessandria — Aosta — Asti — Cuneo, in Piemont; ¶ Sarzana, in Ligurien; ¶ Sassari — Alghero, in Sardinien; ¶ Mailand — Como, in der Lombardei;

¶ Arezzo — Livorno — Pistoja — Prato, in Toscana; ¶ Amalfi — Capua — Aquino — Geracc — Lecce — Potenza, im Neapolitanischen; ¶ Catania — Messina — Girgenti — Noto, in Sicilien. ¶ Aus besonderer Achtung gegen die Person des heiligen Vaters wird die Regierung, im Falle Er es wünschen sollte, in die Ernennung für die Sitze von Sinigaglia in den Marken und Modigliana in Toscana willigen.

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XII. Die Regierung kann ihre Beistimmung zur Ernennung zu den andern Sitzen nicht geben.

XIII. Der Beauftragte wird im Namen der Regierung eine Liste der zu bewirkenden Ernennungen einreichen; behufs Aufstellung dieser Listen hat er die ausgedehnteste Befugniss, alle diejenigen Verabredungen zu treffen, welche ihm angemessen erscheinen.

XIV. Die Königl. Regierung kann keine Dispensation von dem durch die Gesetze des Königreichs geforderten Exequatur ertheilen.

XV. Deswegen wird es nöthig sein, dass jeder Ernannte sein Ernennungsdiplom der Regierung einreicht und sie um Erlaubniss zur Ausübung seines Amtes ersucht.

XVI. Die Modalitäten der Einreichung und des Gesuchs um das Exequatur können nach demjenigen Verfahren bestimmt werden, welches sich als das bequemste herausstellt.

XVII. Die Königl. Regierung kann den Eid in der für das Königreich allgemein angenommenen Formel nicht erlassen und muss ihn von Allen fordern, d. h. sowohl von den Vorgeschlagenen, welche in Folge dieser Unterhandlungen zugelassen werden würden, als auch von den andern neu Erwählten.

XVIII. Es ist soviel als möglich dahin zu wirken, dass die Unterhandlung alle die Gegenstände umfasst, über welche Discussionen und Meinungsverschiedenheiten entstanden sind.

XIX. Sollte es unmöglich sein, eine Einigung über alle obengenannten Gegenstände zu erzielen, so könnte der Beauftragte auf partielle Vergleiche über den einen oder den andern dieser Gegenstände oder auf einen Theil des einen oder des andern eingehen, und den Vollzug desselben ins Werk setzen, nur dürfte die partielle Einigung die andern Punkte, welche unerledigt oder unbesprochen blieben, nicht verletzen oder beeinträchtigen.

Vorbehältlich dieser Regeln kann der Beauftragte der Königl. Regierung, ohne anderweitiger Autorisation zu bedürfen, abschliessen.

No. 2090.

ITALIEN. — Min. d. Ausw. an den Commandeur Vegezzi. — Das Scheitern der Unterhandlungen mit dem heil. Stuhl betr. —

Florenz, 19. Juni 1865.

No. 2190. Italien. 19. Juni 1865.

Herr Commandeur! Ich erhielt die drei Schreiben, welche Sie unterm 12., 14. und 16. d. M. von Rom an mich richteten. ¶ Die Königl. Regierung beklagt es, dass die von der päpstlichen Curie gefassten Beschlüsse die Möglich-

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keit eines Vergleichs ausschliessen, dessen Zustandekommen sie sich im religiösen Interesse der Bevölkerung und im Geiste der Versöhnung und Nachgiebigkeit gegen den heiligen Stuhl aufs angelegentlichste zur Aufgabe gemacht hatte. Und da Sie Rom in Kurzem verlassen müssen, so werden Sie, wenn Sie Sich zum heiligen Vater begeben, um von Ihm Abschied zu nehmen, nicht versäumen, die Gelegenheit zu benutzen, Ihm zu erkennen zu geben, wie sehr es die Königl. Regierung bedauert, dass der heilige Stuhl die von ihr gemachten Concessionen nicht genügend befunden hat. Die Concessionen konnten nicht bis zu der von der römischen Curie gewünschten Grenze ausgedehnt werden, ohne den rein geistlichen Charakter, welchen der Vergleich nach unserer Ansicht unbedingt beibehalten musste, im Grunde zu alteriren. ¶ Wir unterhandelten mit dem ehrwürdigen Haupte der Kirche, nicht mit dem Souverän des päpstlichen Staates; wir unterhandelten im Interesse der Religion, welches uns mit allen andern katholischen Staaten gemeinsam ist, und welches ausser allem Zusammenhang mit politischen Streitigkeiten steht. ¶ Wir bedauern, dass der heilige Stuhl sich nicht in diesen Grenzen halten zu müssen geglaubt hat, wie es seine Weigerung beweist, die Rechte des Staates in der Angelegenheit des Exequatur und in der des Eides anzuerkennen. ¶ In der That beabsichtigte die Königl. Regierung niemals, von der römischen Curie eine Bestätigung der durch den Willen der Nation in irgend einem Theile Italiens festgesetzten Ordnung der Dinge zu verlangen; auch konnte dieses gar nicht, wie Sie ausdrücklich zu erklären hatten, die Bedeutung des Eides und Exequaturs sein, welche aufrecht zu erhalten gebieterische Gründe der Würde, des innern Rechtes und des öffentlichen Wohles der Regierung die Pflicht auferlegten. ¶ Der Eid und das Exequatur in den von der Regierung vorgeschlagnen Formen sollten zum Zweck haben, jene unstreitigen Pflichten der Unterwürfigkeit unter die herrschende Gewalt und der Achtung vor den bestehenden Gesetzen zu constatiren, welche die Kirche stets ihren Dienern und Gläubigen in den Dingen anempfahl, die ausser dem Bereiche der Religion liegen. ¶ Blicken wir auf die aufeinanderfolgenden Phasen der gegenwärtigen Unterhandlungen zurück, so gereicht es uns zur Genugthuung, constatiren zu können, dass der heilige Stuhl ausser diesen beiden Punkten nicht umhin gekonnt hat, die von der Königl. Regierung gemachten Concessionen an sich als genügend anzuerkennen, und dass Ihn nur, wie aus den Erklärungen der römischen Curie hervorgeht, der religiösen Frage fernliegende Vorurtheile bestimmt haben, grössere Concessionen und zwar, wie ich schon erwähnte, solche zu fordern, welche nicht bewilligt werden konnten. ¶ Um jedoch bis zur äussersten Grenze des Möglichen fortzufahren, Beweise von der grössten Nachgiebigkeit zu geben, zu welcher sich die Regierung der Kirche gegenüber bei jedem Argument über klerikale Ordnung bekennt, sofern die Rechte der Krone und der Nation nicht damit in Widerspruch gerathen, und um, so viel an ihr ist, die vom heiligen Vater ergriffne Initiative nicht resultatlos zu lassen, autorisirt Sie die Königl. Regierung, Seiner Heiligkeit anzuzeigen, das sie ihrerseits sich erbietet, dahin zu wirken, dass die von ihren Diöcesen jetzt abwesenden Bischöfe in der von Ihnen bereits mit dem heiligen Stuhle vereinbarten Weise zurückkehren. Genehmigen Sie, etc. *La Marmora.*

No. 2191.

ITALIEN. — Commandeur Vegezzi an den Kön. Min. d. Ausw. — Bericht über die gepflogenen Unterhandlungen. —

Turin, 3. Juli 1865. (Erhalten den 4.)

No. 2191. Italien, 3. Juli 1865.

Excellenz! Hierdurch beehre ich mich, Ew. Exc. einen Bericht über meine und meines Collegen Wirksamkeit in der zweiten Periode unserer Mission in Rom zu übersenden. ¶ Indem ich Ihnen die Versicherung meiner Hochachtung darbringe, habe ich die Ehre, etc.

F. S. Vegezzi.

Hochverehrter Herr Ministerpräsident! — In den ersten Tagen des nun vergangnen Juni begaben sich Unterzeichnete nach Rom, um die Unterhandlungen, welche im vorigen April in Ausführung der ehrenvollen ihnen von der Königl. Regierung übertragenen Mandate begonnen wurden, mit dem heiligen Stuhle wiederaufzunehmen und fortzuführen. ¶ Bei der Wiederaufnahme dieser Unterhandlungen hielten sie sich, wie es ihre Pflicht war, streng an die von dem Rathe der Krone unter dem 22. Mai beschlossenen Instructionen. ¶ Es waren, wie Sie Sich gef. erinnern wollen, fünf Gegenstände der Verhandlungen:

1. Die Rückkehr der Bischöfe zu ihren Sitzen, deren Entfernung entweder auf Anordnung der Regierung oder durch ihren eignen freien Willen veranlasst wurde;
2. Die Zulassung der vom heiligen Stuhle vor Eröffnung der Verhandlungen vorgeschlagenen Bischöfe;
3. Die Ernennung zu den erledigten bischöflichen Sitzen;
4. Das Königl. Exequatur zu den Ernennungsbullen;
5. Der von den ernannten Bischöfen zu leistende Eid.

Schreiber dieses setzten Sr. Em. dem Cardinal Staatssecretär Antonelli, welchen S. Heiligkeit auch diesmal die Unterhandlungen zu führen beauftragt hatte, auseinander, welches die Bedingungen seien, unter denen die Königl. Regierung nachzugeben bereit sei. ¶ Sie begannen damit, über die Rückkehr der von ihren Sitzen abwesenden Bischöfe zu verhandeln, als über einen nicht nur separaten und unterschiednen, sondern auch ganz von den andern unabhängigen Gegenstand; sodann hielten sie es für angemessen, zuerst die zwei letzten Fragen über das Exequatur und den Eid zu verhandeln, theils weil sie Principienfragen enthielten; theils weil man, ohne vorher über diese eine Ausgleichung erzielt zu haben, weder zur Zulassung der vorgeschlagenen Bischöfe noch zur Ernennung für erledigte Sitze schreiten konnte; theils endlich weil man dafür hielt, es wäre der Würde der Regierung angemessener, dass, wenn die Unterhandlungen geschlossen werden müssten, oder offen blieben, oder abgebrochen würden, dies bei Meinungsverschiedenheiten über Punkte geschähe, welche Principienfragen enthalten, als über solche Punkte, in welchen man entweder nur über einige Sitze mehr, oder über Annahme oder Nichtannahme dieser oder jener Person unterhandelte, da man hauptsächlich festhielt, dass in der

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Reihenfolge der Personen, ausser rücksichtlich des zum Bisthum von Mailand vorgeschlagenen Bischofs, keine bedeutende Divergenz entstanden war, und dass der heilige Stuhl sich nicht abgeneigt gezeigt hatte, der im Namen der Königl. Regierung kurz und bündig gegebenen Erklärung, dass sie jene Präconisation nicht annehmen könne, beizustimmen.

Ueber die Rückkehr der von ihren Sitzen abwesenden Bischöfe referirten die Unterzeichneten, dass die Königl. Regierung den dringenden Forderungen des heiligen Stuhles nachgebe und in Anbetracht der angeführten Erwägungen nicht auf die schon vorgeschlagene Bedingung dringe, wonach die Bischöfe, welche in ihre Diöcesen zurückkehren wollten, eine Erklärung an die Regierung oder an das Volk einen Hirtenbrief erlassen müssten, in welchem sie sich feierlich verpflichteten, dem Könige treu und den Gesetzen des Staates gehorsam zu sein. ¶ Es kam demnach über diesen Gegenstand ein Vergleich zu Stande und wurde also verhandelt und alsdann beschlossen:

1. Dass die Königl. Regierung als allgemeines Princip annimmt, dass die von ihren Sitzen abwesenden Bischöfe dahin zurückkehren, ausser in den Gegenden, wo die gewisse Aussicht auf Unruhen oder Unordnungen in der Bevölkerung, die Sicherheit des Prälaten selbst, die Nothwendigkeit die Gelegenheit zu Aergernissen zu vermeiden, die Rückkehr unmöglich oder zu einem Act der grössten Unvorsichtigkeit machen würden.

2. Die Zustimmung wurde gegeben und angenommen, unter der Bedingung, dass die Rückkehr einzeln, nach und nach und möglichst unbemerkt vor sich gehe.

3. Man kam überein, dass die Königl. Regierung die Ordnung und stufenweise Aufeinanderfolge der Rückkehr und zwar mit möglichster Sorgfalt bestimmen und dafür sorgen solle, jeden abwesenden Bischof zu benachrichtigen, dass es ihm frei stehe zurückzukehren; dass sie ausserdem, im Falle einer oder der andere der Bischöfe, denen die Rückkehr gestattet wurde, nicht in seine Diöcese zurückkehren wolle, diejenigen Entschliessungen fassen könne, welche sie für berechtigt und geeignet halten würde.

Bei Gelegenheit der ersten Unterhandlungen schien es den Unterzeichneten, als ob der heilige Stuhl diesem Gegenstande der Rückkehr der von ihren Diöcesen abwesenden Bischöfe eine grosse Wichtigkeit beilege. Als sie in der ersten Periode der Verhandlungen darauf aufmerksam machten, dass einigen Bischöfen die sofortige freie Rückkehr vor der Hand nicht bewilligt werden könne, weil man Grund zu fürchten hätte, dass dieselbe zu Unordnungen und Unruhen Anlass geben könne, und weil die Prälaten vielleicht selbst Gefahren ausgesetzt würden, und es deshalb vor einer Beschlussfassung nöthig sei, neue und genaue Erkundigungen einzuziehen, — wurde vom heiligen Stuhle bemerkt, dass die von ihm eingezogenen Erkundigungen und erhaltenen Nachrichten ihn vom Gegentheil überzeugt hätten; dass er daher fürchte, die Königl. Regierung möchte nicht genau unterrichtet sein und ihre Erfahrungen mit der Wahrheit nicht ganz übereinstimmen. Aus diesen Gründen schien der heilige Stuhl der Annahme grosse Schwierigkeiten entgegenzusetzen, dass die Rückkehr einiger höher gestellten Prälaten nur im Princip und versuchsweise gestattet würde, d. h.

für den Fall, dass sie ohne Unruhen befürchten zu lassen und ohne Gefahr für sie selbst stattfinden könne. Auf gleiche Weise hatten die Unterzeichneten in der ersten Periode der Unterhandlungen wahrzunehmen geglaubt, dass der heilige Stuhl, während er zugab, dass die Rückkehr allmählich, unmerklich vor sich gehe, gleichwohl wünschte, dass die Bestimmung, in welcher Ordnung die Rückkehr erfolgen solle, ihm überlassen werden müsse, schon deshalb, weil er auf diese Weise die Befehle zur Rückkehr geben könne, welche vielleicht für Einige nothwendig werden könnten.

Um diese abweichenden Ansichten der beiden hohen unterhandelnden Parteien zu vereinigen, kamen Unterzeichnete auf den Gedanken, diese von ihren Sitzen abwesenden Prälaten in drei Kategorien zu theilen, wobei ihnen die Memoires des Justizministeriums als Richtschnur dienten: die eine Kategorie könnte die Prälaten begreifen, deren Rückkehr, soviel bekannt sei, kein Hinderniss entgegenstände; eine zweite diejenigen Bischöfe, über die man noch genauere Erkundigungen einziehen müsste, um zu wissen, ob ihre Rückkehr ohne Nachtheil gestattet werden könnte; eine dritte endlich diejenigen, von deren Rückkehr man heute noch alle Ursache zu glauben hat, dass sie Unordnungen hervorrufen könnte, und welche deshalb als die Letzten so lange zurückgewiesen werden müssen, bis die bekannt gewordene Rückkehr der Andern das Volk auf ihre Aufnahme vorbereitet, die Zeit die Gemüther beruhigt und man endlich mit mehr Sicherheit annehmen kann, dass die Rückkehr ohne ernste Gefahren möglich ist. ¶ Deshalb hatten sie drei Listen der drei Kategorien angefertigt und vorgeschlagen, dass einstweilen dem heiligen Stuhle die Bestimmung überlassen bleibe, in welcher Ordnung die in der ersten Liste Verzeichneten zurückkehren sollten, jedoch mit dem Vorbehalt, dass nach eingezogenen neuen Erkundigungen in Betreff der in den andern beiden Listen Enthaltenen ein anderweitiges Uebereinkommen zu treffen sei. ¶ Aber bei den letzten Verhandlungen wurde vom heiligen Stuhle nicht von Neuem darauf gedrungen, die Disposition über die Ordnung der Rückkehr zu erhalten; vielleicht deshalb weil er es nicht angemessen fand die Verantwortlichkeit für die Folgen auf Sich zu nehmen, die diese Ordnung haben könne; denn die Nachrichten über die Gesinnungen der Bevölkerung waren keineswegs beruhigender Art. Ja es wurde sogar vom Cardinal Staatssecretär bemerkt, die Bestimmung der Ordnung der Rückkehr, welche der Uebereinkunft gemäss, einzeln und unmerklich geschehen müsse, sei so recht eigentlich nur Sache der Königl. Regierung, da sie für die Ruhe des Landes zu sorgen habe. Unter solchen Umständen konnten die Beauftragten der Königl. Regierung nicht umhin anzunehmen, dass die Sache der einsichtsvollen Entscheidung der Regierung überlassen werde und demzufolge einigten sie sich in der vorher referirten Conformität, welche wenigstens den Vortheil hat, einfacher zu sein und zwischen den beiden Regierungen Berührungspunkte von geringerer Wichtigkeit zu erfordern, da diese Berührungspunkte nothwendigerweise die Verwirklichung der Einigung erschwert und auch möglicher Weise zu neuen Unzufriedenheiten zwischen beiden Parteien hätten führen können. ¶ Da die Zahl der von den Diöcesen abwesenden Bischöfe bedeutend ist (nämlich 40) von denen nach dem letzten vom Justizministerium gegebenen Verzeichniss 36 in den neapolitanischen,

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und 4 in den andern Provinzen, so glaubten sie, der heilige Stuhl müsse diesem die Rückkehr der abwesenden Bischöfe betreffenden Theile der Unterhandlungen eine grosse Wichtigkeit beilegen; es mussten daher die Unterzeichneten die wahrscheinlichen Gründe aufzufinden suchen, weshalb dieser Gegenstand der Verhandlungen von dem heiligen Stuhle für minder wichtig gehalten zu werden schien. ¶ Und wenn die Untersuchungen sie nicht getäuscht haben, so muss diese Verschiedenheit der Werthbeilegung erstens dem Umstande zugeschrieben werden, dass mehrere, wenn nicht alle von ihren Diöcesen abwesende und in Rom verweilende Bischöfe, in ihre Diöcesen nicht zurückkehren wollten oder für ihre Rückkehr allzugrosse Gefahren entdeckten und deshalb allen ihren Einfluss aufboten, damit kein Vergleich in dieser Richtung zu Stande käme; den zweiten Grund fanden sie in den eifrigen und dringenden Abmahnungen derjenigen, welche es sich zur Aufgabe machten, jeden Vergleich zu hintertreiben; und diese arbeiteten, wie den Berichterstattern versichert wurde, nach Kräften und mit grösster Anstrengung darauf hin, dass die Verhandlungen, obgleich vom Papste selbst die Initiative dazu ergriffen worden war, zu keinem günstigen Resultate gelangten, und sie suchten sogar das Gerücht zu verbreiten, dass die Königl. Regierung, wenn ihr die Entscheidung über die Ordnung der einzeln und allmählich zu bewirkenden Rückkehr überlassen würde, sich wenig oder gar nicht angelegen sein lassen werde, dieselbe zu realisiren. ¶ Und eben beabsichtigte man diese Anklagen zu widerlegen, als die Unterzeichneten in ihrer Note vom 16. Juni die Regierung, welche anfing die Rückkehr eifrig ins Werk zu setzen, ersuchten, Sr. Hochwürden Herrn Marongiù Erzbischof von Cagliari freie Rückkehr zu gestatten und sie zu bevollmächtigen, ihn hiervon zu benachrichtigen, um so mehr als Seine Hochwürden bereits in den ersten allgemeinen Tabellen unter denjenigen verzeichnet war, deren Rückkehr nichts im Wege stand. ¶ Diese Verordnung hätte bewiesen, wie loyal die Königl. Regierung verfuhr; aber in der Vergleichungstabelle vom 19. Juni wurde darauf hingewiesen, dass man es für geeignet erachte, den Präfect der Provinz zu befragen, um Gewissheit zu erhalten, dass die Rückkehr einen Anlass zu speciellen Nachtheilen nicht geben könne, und diese dazwischentretende Nothwendigkeit verhinderte, mit der Ausführung des Vergleichs sofort zu beginnen.

Bei Berichterstattung darüber, in wie weit die Königl. Regierung zu einem Consens in Betreff des Exequatur zu den Ernennungsbullen geneigt sei, erinnerten die Unterzeichneten, dass bei der grossen Zahl der vor diesen Verhandlungen vorgeschlagenen Bischöfe, welche Zahl eine grössere sei, als man bisher angenommen, die Regierung, mit Ausnahme der beiden von Modigliana und Sinigaglia in Gemässheit der Nummern XI und XII der Instructionen vom 22. Mai, zu keinen weiteren Ernennungen als den schon erklärten ihre Zustimmung geben könne. ¶ Aber dann bemerkten sie aus Gründen, welche im Anfange dieses Berichtes angeführt wurden, dass vor Allem die wichtigeren Fragen des Exequatur und Eides, von welchen diese nothwendigerweise abhingen, erörtert werden müssten; nicht ohne zu erwägen, dass wenn diese bedeutenderen Meinungsverschiedenheiten durch einen Ausgleich gehoben würden, dann die Ausgleichung der andern, weil minder wichtigen und keine Principienfragen

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enthaltenden Divergenzen nach ihrer Meinung leichter erreicht werden dürfte. ¶ Diese Begründung wurde für triftig erachtet, und man sprach zuerst über das Exequatur und dann über den Eid. ¶ Ueber diese beiden Punkte und in den verschiedenen Sitzungen, in denen man hierüber verhandelte, konnte man gleichwohl nicht zu einer Annäherung gelangen. ¶ Jetzt werden die Unterzeichneten über das System berichten, an welches sie sich bei der Führung dieses Theiles der Unterhandlungen hielten. ¶ Das Exequatur, erinnerten sie, ist in seiner letzten Substanz nur der Act des Staatsoberhauptes, durch welchen es, nachdem es von der Wahl, die der heilige Stuhl getroffen, in Kenntniss gesetzt worden, erklärt, dass der Ausführung derselben nichts entgegensteht, und dass es mit dieser Ausführung, wie es das Wort selbst ausdrückt, einverstanden ist. ¶ Es ist Grundsatz und Herkommen des öffentlichen Rechtes des Königreichs, dass keine Besetzung des heiligen Stuhles ausgeführt werden kann, ehe sie der Königl. Regierung vorgelegt worden ist und ehe sich nach einer eingehenden Prüfung von Seiten dieser herausgestellt hat, dass diese Besetzung weder die Rechte der Souveränetät, noch die Gesetze des Königreichs verletzt. ¶ Ganz abgesehen von den positiven Anordnungen des öffentlichen innern Rechtes und abgesehen von dem bisher Gebräuchlichen, entspringt das Recht, das Exequatur zu fordern, an sich aus dem Recht, welches jede Regierung, auch als Regierung de facto betrachtet, hat, die eigne Existenz und die Rechte, in deren Besitz sie sich befindet, zu schützen. ¶ Indem die Königl. Regierung das Exequatur fordert, ist sie nicht gewillt, sich in religiöse Dinge zu mischen, welche nicht zu ihrer Competenz gehören; sie will sich nur die Gewissheit verschaffen, dass das Recht der geistlichen Gewalt, Aemter zu ertheilen, nicht über die Grenzen der religiösen Angelegenheiten, deren Verwaltung ihr zukommt, hinausgeht. ¶ Die Opportunität des Exequatur tritt deutlicher hervor, wenn die geistliche Gewalt, welche die Stellenbesetzung publicirte, thatsächlich Souveränetätsrechte in einem andern Staat in sich vereinigt und ausübt. ¶ Bei näherer Beleuchtung der in Rede stehenden Gegenstände ergiebt sich offenbar die Nothwendigkeit der Beobachtung des Exequatur hinsichtlich der Ernennungsbullen der Bischöfe, welche in den Romagnen, Marken und in Umbrien, die sich vom Kirchenstaate losgesagt haben, vor den gegenwärtigen Verhandlungen vorgeschlagen wurden, denn es muss die Form, in welcher die Behörde sie erliess, und die Jurisdiction, welche durch dieselben den Ernannten angewiesen worden ist, geprüft werden. ¶ Die Civiljurisdiction, welche der Papst früher als weltlicher Fürst den Bischöfen und Erzbischöfen in jenen Provinzen anwies, könnte nicht gestattet werden, weil sie durch Präconisationen ertheilt wurde, welche vor der Trennung jener Provinzen vom päpstlichen Gebiete stattfanden, und zu den bezüglichen Bullen müsste das Decret zum Exequatur eine Beschränkung beifügen. ¶ Die dem Papst gebührende Ehrfurcht würde es nicht gestatten, dass man den Erlass neuer Bullen oder Umänderung derselben verlange, auch würde dies für die Unverletzlichkeit der Rechte der weltlichen Macht nicht nothwendig sein, welche bei Vorzeigung der Bullen in dem Decret zum Exequatur vorsichtig ihre volle Ausführung auf den religiösen oder rein geistlichen Theil beschränken würde. ¶ Die Unterhandlungen wurden eröffnet und geführt, indem man als Basis nur die fac-

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tische Existenz des Königreichs Italien festhielt und vorläufig einverstanden war, dass man eine Rechtsanerkennung desselben Königreichs weder suche noch beanspruche, in Summa auf den Grundlagen der allbekannten Bulle *Sollicitudo* Sr. Heiligkeit des Papstes Gregor XVI. vom 5. August 1831 *), aber indem die Königliche Regierung ihren Willen erklärt, dass jene Einsetzungen der Bischöfe dem Exequatur untergeordnet sein sollen, verlangt sie keine ausdrückliche Rechtsanerkennung vom heiligen Stuhle, und noch viel weniger beansprucht sie dieselbe. ¶ Die Kgl. Regierung verlangt nicht, dass der heilige Stuhl den Bischöfen b e f e h l e, das Exequatur zu fordern; sie verlangt nicht, dass der heilige Stuhl dem b e i s t i m m e, dass sie es fordere; wollte sie einen solchen Befehl oder Consens von ihm verlangen, so könnte sie leicht in den Verdacht kommen, sie suche eine indirecte Anerkennung des Rechtes ihrer Souveränetät; doch ist dem nicht also. ¶ Die Regierung, um bei diesen Unterhandlungen loyal zu verfahren, um die Beschuldigung zurückzuweisen, dass, sei erst einmal bei Gelegenheit der Ausführung eine Einwilligung gegeben, sie dann mehr Bedingungen stellen oder die Erfüllung von unvorhergesehnen, nicht bedachten, zur Zeit der Unterhandlungen nicht berechneten Förmlichkeiten fordern werde, musste erklären, wie sie erklärt und vorerinnert hat, dass sie die Ausführung der päpstlichen Einsetzungen, möge es sich um die bereits Vorgeschlagnen oder um noch zu Ernennende handeln, nur dann gestatten würde, wenn ihr die Bullen für das Exequatur eingereicht würden: aber sie erklärte und erinnerte zugleich, dass sie das nicht Concessions oder Vergleichs halber thun wolle, sondern um ihres eignen Rechtes willen, d. h. weil sie factisch besteht, weil sie ein Recht hat, ihre thatsächliche Existenz, die Souveränetät, die Rechte, die sie wirklich besitzt, zu vertheidigen. ¶ Sodann sind die Bischöfe, denen es zukäme, die Bullen ihrer Einsetzung einzureichen, obgleich sie officielle Behörden der geistlichen Hierarchie sind, doch immerhin nicht mit dem heiligen Stuhle zu verwechseln, noch mit ihm zu unificiren; ihre Wirksamkeit könnte man nicht Wirksamkeit des heiligen Stuhles nennen, noch auch mit einer ausdrücklichen Anerkennung des Königreichs Ita-

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*) Die Stelle der Bulle, welche näher auf den Gegenstand eingeht, ist folgende:

„Approbamus, ac denuo sancimus, declarantes pro futuris quoque temporibus, „quod si quis a Nobis vel a successoribus Nostris, ad spiritualis ecclesiarum fideliumque re„giminis negotia componenda, titulo cujuslibet dignitatis etiam regalis ex certa scientia, „verbo, constitutione, vel literis, aut legatis quoque hinc inde oratoribus nominetur, honore„tur, seu quovis alio modo actuve, quo talis in eo dignitas facto agnoscatur, aut si easdem „ad causas cum iis, qui alio quocumque gubernationis genere rei publicae praesunt, tractari, „aut sanciri aliquid contigerit, nullum ex actibus, ordinationibus et conventionibus id generis „jus iisdem attributum, acquisitum probatumque sit, ac nullum adversus caeterorum jura et „privilegia ac patronatum discrimen, jacturaeque et immutationis argumentum illatum censeri „possit ac debeat: quam quidem de jurium partium incolumitate conditionem pro adjecta „actibus istiusmodi habendam semper esse edicimus, decernimus et mandamus, illud iterum „Nostro ac Romanorum Pontificum successorum Nostrorum nomine denunciantes, in hujus„cemodi temporum, locorum personarumque circumstantiis, ea tantum quaeri, quae Christi „sunt, atque unice veluti susceptorum consiliorum finem ea ad oculos versari, quae ad spiri„tualem aeternamque populorum felicitatem facilius conducant."

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lien, welche vom heiligen Stuhle selbst ausgegangen wäre, verwechseln. ¶ Ausserdem endlich, um uns an die so klaren Dispositionen der obenerwähnten Bulle *Sollicitudo* zu halten, wollte man auch, was aber nicht der Fall ist, die von den Bischöfen gestellte Forderung des Exequatur als einen Act des heiligen Stuhles ansehen, wollte man auch die ausdrückliche Erwähnung des Königs von Italien und die ausdrückliche Bezeichnung des Königs Victor Emanuel II. als König von Italien als beschlossen betrachten — so könnte dennoch diese Erwähnung, diese Bezeichnung, nach dem durch jene Bulle sanctionirten Gesetz der römischen Curie, nicht als Anerkennung angesehen werden oder dem König von Italien als Rechtstitel dienen; sie würde den entthronten Fürsten, welche früher in den Provinzen des Königreichs Italien die Herrschaft besassen, an ihren Rechten nichts verkürzen. ¶ Aus diesen Gründen bemerkten die Delegaten der Königl. Regierung, dass die während der Verhandlungen im Namen derselben Regierung gegebene Erklärung, sie würde die Einreichung der Ernennungsbullen für das Exequatur fordern, während sie dagegen jenen Thatbestand, welcher vorher festgesetzt worden war, bei den Unterhandlungen zu respectiren versprach, ohne ihn zu sanctioniren, dass diese Erklärung andrerseits keinem der Rechtsansprüche des heiligen Stuhles präjudicire und demnach auch dem Abschluss von Unterhandlungen kein Hinderniss entgegensetze, welche, da sie den Zweck hätten, eine rein religiöse Forderung zu befriedigen, wegen einer weithergeholten und ganz grundlosen Furcht vor einem im Verborgenen obwaltenden politischen Nachtheil, nicht ausgeschlossen werden dürften. ¶ Die im ersten Stadium der Unterhandlungen entstandenen Discussionen hatten Schreiber dieses überzeugt, dass die Schwierigkeit hauptsächlich auf der Forderung des Exequatur beruhe. Schon damals hatte man sich von Seiten des heiligen Stuhles ausdrücklich dahin erklärt, dass Er Sich dem Verlangen der Regierung weder widersetzen wolle, noch Sich widersetzen zu können glaube, dass sie nämlich bei Gelegenheit jeder Einsetzung diejenigen Decrete erlasse, welche sie nach Massgabe ihres innern Regimentes für die geeignetsten halte, um zur Ausführung der päpstlichen Provisionen Gelegenheit zu geben; nur müsse der heilige Stuhl ihnen fern bleiben. Sie konnten deshalb nicht einmal den leisesten Verdacht hegen, man werde den Widerstand so weit treiben, den Bischöfen zu verbieten, ihre Einsetzungsbullen vorzuzeigen; deshalb und in Erwägung der Schwierigkeit, ein von den Bischöfen zu machendes Bittformular aufzusetzen, welches alle Bedenklichkeiten beseitige und alle Empfindlichkeiten entferne, machten die Unterzeichneten von den äussersten ihnen in Nr. XVI der Instructionen zugestandenen Rechten Gebrauch und schlugen vor, dass die an den officiellen Deputirten der Regierung bewirkte Vorzeigung der päpstlichen Bullen der Forderung des Exequatur gleichkommen solle, und dass man nichts weiter urgire als die effective Uebersendung der Bullen, nach welcher die Regierung den Erlass des Ausführungsdecretes besorgen werde. ¶ Diese Reflexionen und ebenerwähnten Erleichterungen vermochten jedoch nicht, eine Ausgleichung auch nur annäherungsweise herbeizuführen. ¶ Von Seiten des heiligen Stuhles führte man an, dass die Anwendung des Exequatur nur eingeführt worden sei, um zu erfahren, ob die Besetzungen vom Papste ausgegangen seien, nicht um zu controliren, ob der Papst bei Ausübung derselben in den

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Grenzen Seiner Autorität und Jurisdiction geblieben sei oder nicht. ¶ Sobald man Gewissheit habe, dass eine Ernennung vom Papste geschehen, sei ferner weder eine Vorzeigung noch eine Präsentation von Bullen an die weltliche Macht nöthig. ¶ Wenn der heilige Stuhl einwillige, dass ein Gesuch behufs Zulassung zur Realisirung Seiner Besetzungen in rein religiösen Dingen gestellt werden müsse, muthe Er der Kirche einen Zwang, eine ganz neue Abhängigkeit zu, welche sie nicht annehmen könne und welche sich mit dem grossen politischen Schlagwort einer freien Kirche im freien Staate, das als Richtschnur der Beziehungen der weltlichen Regierung zur Kirche proclamirt worden sei, schlecht vertrage. ¶ Wenn die Königl. Regierung wünsche, sich bei jeder einzelnen Ernennung sicher zu stellen, so könne man die Wahl nicht nur in denselben Urkunden des Vergleichs, welchen man etwa zu Stande brächte, vornehmen, sondern man würde auch zu ihrer grösseren Beruhigung nicht abgeneigt sein, ihr bei Gelegenheit jeder Besitzergreifung neue Sicherheit mit beigefügtem Avis zu geben; und andrerseits würden die bei der Besitzergreifung stattfindenden Feierlichkeiten, welche unter Betheiligung des Capitels und des Volkes begangen werden, dann immer hinreichen, ihr die vollste Sicherheit zu verschaffen, ohne dass eine Vorzeigung der Ernennungsbullen nöthig sei. ¶ Wollte der heilige Stuhl der Königl. Regierung die Ausübung des Rechtes bewilligen, sich die Bullen vorzeigen zu lassen, so wäre dies von Seiner Seite eine ausdrückliche Anerkennung legitimer Souveränetät, welche Er nach Massgabe der Grundlagen, auf welchen die Unterhandlungen aufgenommen wurden, nicht zugeben könne. ¶ Indem der Cardinal Staatssecretär im Resumé ähnliche Gedanken mit grösserer Geschicklichkeit entwickelte, erklärte er rundweg, er könne sich auf keinen Vergleich einlassen auch bei den vorgeschlagnen Erleichterungen der Ausführung, da die Kgl. Regierung dabei beharre, die Unterordnung der Bullen unter das Exequatur zu beanspruchen. ¶ Hätten nicht schon die Instructionen die Bevollmächtigten der Kgl. Regierung abgehalten, von den gegebenen Erklärungen abzuweichen, so würde vielleicht der entschiedene Widerstand des heiligen Stuhles gegen das Verlangen, dass die vor diesen Verhandlungen vorgeschlagenen Bischöfe ihre Erennungsbullen aufweisbar machen und vorzeigen sollten, hingereicht haben, sie von einer Nachgiebigkeit abzubringen; denn da ein hinreichender Grund zu einem solchen Widerstand vorhanden sein muss, so war für sie keine andere Möglichkeit als zur Ueberzeugung zu gelangen, dass es nothwendig sei, bei der verlangten Aufweisung zu verharren. ¶ So konnte man über diesen Punkt zu keiner schliesslichen Einigung gelangen, und die Frage hierüber blieb offen.

Wie leicht vorauszusehen war, sind die Schwierigkeiten, welche sich hinsichtlich des Eides zeigten, nicht die gleichen, aber beträchtlich grössere. ¶ Nach Ansicht des heiligen Stuhles bedeutet die Zulassung des Eides eine vollständige Anerkennung der legitimen Souveränetät zu Gunsten der Macht, der gegenüber der Eid zugelassen wird. ¶ Der Eid, fügte man ferner hinzu, kann nur gegen die Souveräne gestattet werden, mit welchen der heilige Stuhl ein Concordat abgeschlossen hat, ja noch mehr, die im Concordat befindlichen Staaten selbst pflegen immer die Eidformel festzusetzen. ¶ Richtig ist zwar, äusserte man, dass der Souverän, wenn er es will, von den bürgerlichen Beamten und Behörden, welche mit bür-

gerlichen Aemtern bekleidet werden, einen Eid verlangen kann. Aber die Bischöfe sind keine bürgerlichen Beamten und könnten noch vielweniger als solche betrachtet werden, besonders nachdem mit der Ausführung des neuen Civilcodex jede Jurisdiction in Sachen bürgerlicher Beziehungen ihrerseits aufhören muss. ¶ Der heilige Stuhl, sagte man, ist der Meinung, dass die Bischöfe dem König gehorchen und treu sein, ihn achten und ehren müssen; Er ist der Meinung, dass sie den Behörden unterthan sind und sich enthalten, sich zu Häuptern oder Mitschuldigen von Contrerevolutionen zu machen; die Bischöfe sehen ein, dass dies ihre Pflichten sind, und dem heiligen Stuhl, wenn er es nicht für überflüssig hielte, würde es nicht schwer fallen, sie daran zu erinnern und sie ihnen einzuschärfen; aber daraus folgt nicht, dass sie im Allgemeinen schwören müssen und selbst schwören können, auch solche Gesetze zu befolgen, welche den Vorschriften der Kirche zuwider liefen. ¶ Jedenfalls ist dann dieser politische Eid unnütz: entweder werden die gewählten Bischöfe, wie man nicht zweifelt, bieder und rechtschaffen sein, und dann werden sie die Behörden des Staates auch ohne Eidesleistung achten; oder gesetzt, es wäre einer unter ihnen im Stande, diese seine Pflichten zu verletzen, so wird dieser sich ebensowenig durch den Eid, welchen er vielleicht geleistet hat, in Schranken halten lassen. ¶ Ehe sich die Königl. Regierung hierüber erklärt hatte, waren die Unterzeichneten, in Erwägung besonders, dass einige Provinzen des Königreiches früher einen Theil der päpstlichen Staaten ausmachten, zur Ueberzeugung gekommen, dass es nur ein Mittel gäbe, um auf diesem Terrain die Parteien einander zu nähern, nämlich das, alle Bischöfe von jeder Eidesleistung zu dispensiren: es fehlte nicht an Beispielen von speciellen und individuellen Dispensen, und sie trösteten sich in ihrer Ueberzeugung mit der Nutzlosigkeit, um nicht zu sagen dem Nachtheile des politischen Eides, von welchem man nicht sagen könnte, dass je einem Staate ein Vortheil daraus erwachsen sei, und der Gedanke ist nur zu wahr, welcher in dem Decrete der provisorischen Regierung der Französischen Republik vom 2. März 1848 zu lesen ist: „*Depuis un demi-*„*siècle chaque nouveau gouvernement a exigé et reçu des serments qui ont*„*été successivement remplacés par d'autres à chaque changement politique.*“ ¶ Aber als die Räthe der Krone sich über diese Streitfrage aussprachen und wie zuvor entschieden, dass der Eid zu fordern sei, erklärten ihre Bevollmächtigten, dass man nicht davon abgehen könne. ¶ Der grösste Theil der Gründe, welche sie über das Exequatur angaben, kam ihnen auch wieder in Hinsicht des Eides zu Statten. ¶ Es ist nicht der Fall, sagten sie, dass der Eid der Bischöfe mit einer ausdrücklichen Anerkennung von Seiten des heiligen Stuhles verwechselt oder verschmolzen werden könnte: die Bischöfe sind nicht der heilige Stuhl; das Werk der einzelnen Bischöfe ist nicht das Werk des heiligen Stuhles; es ist nicht wahr, dass der von einem Bischofe einem Fürsten geleistete Eid der Treue die Anerkennung der Legitimität jenes Fürsten von Seiten des heiligen Stuhles einschliesse. ¶ Man verlangt weder vom heiligen Stuhle, dass Er den Bischöfen zu schwören befehle, noch dass Er einwillige, dass sie schwören: man macht nur während der Verhandlungen die Mittheilung, dass die Regierung von jedem einzelnen der vorgeschlagenen und neu ernannten Bischöfe die Eidesleistung for-

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dern wird: der heilige Stuhl wird keinen Act zu erlassen haben und deshalb Sich weder einer ausdrücklichen, noch stillschweigenden Anerkennung schuldig machen können. ¶ Er wird vielleicht sagen, dass Er die Eidesleistung nicht erlauben kann? Aber wenn Er dies thäte, würde Er das thatsächliche Vorhandensein jener weltlichen Macht anfechten und bestreiten, welche Ihm nicht unbekannt sein kann und die jetzt herrscht. ¶ Daraus, dass der politische Eid der Bischöfe meistentheils durch Concordate geregelt worden ist, scheint nicht zu folgen, dass er nur dann gefordert werden kann, wenn ein geeignetes relatives Concordat besteht. Die bürgerlichen Gesetze bieten zahlreiche Beispiele, dass die weltliche Macht allein ohne irgend welche Mitwirkung der geistlichen Behörde Eide forderte und auferlegte, und man kann deshalb nicht an der gesetzlichen Wirksamkeit der bürgerlichen Verordnungen zweifeln, welche den Schwur zur Pflicht machen. ¶ Obgleich in nächster Zeit die Beobachtung der neuen Gesetze hinzukommt und damit der bürgerliche Eid der Bischöfe bei Eheschliessungen aufhören muss, so ist es doch Thatsache, dass sie ihn vor der Hand noch haben. ¶ Uebrigens haben die Bischöfe, auch ohne bürgerliche Jurisdiction, in einem Lande, in welchem der bei weitem grösste Theil der Bürger katholisch ist, eine so hervorragende sociale Stellung, so grossen Einfluss, dass man schon deshalb die Nothwendigkeit für hinreichend begründet halten kann, ihnen die Eidesleistung vorzuschreiben; und damit geschieht der Kirche kein Unrecht, vielmehr wird die Wichtigkeit der Stellungen in der geistlichen Hierarchie anerkannt und zugegeben. ¶ Was ferner den Werth des Eides anlangt, so glaubten die Unterzeichneten erstens bemerken zu können, dass, wenn der heilige Stuhl anerkannte, dass die Bischöfe dem König gehorsam und treu und den Behörden des Staates unterthan sein müssen, Er nicht mit Recht verbieten konnte, dass sie beschwören diese ihre Verbindlichkeiten zu erfüllen; und dass dann übrigens die Regierung die Annahme nicht gelten lassen konnte, dass im Staate Gesetze sanctionirt würden, denen zu gehorchen man nicht eidlich versprechen könnte; und ausserdem würde diese Annahme, welche man aber nicht gelten lassen kann, keinen Grund abgeben, um den Eid zu verweigern, da man die theologische Lehre kennt, dass der Eid kein *vinculum iniquitatis* sein und sich nicht auf solche angenommene Gesetze erstrecken kann. ¶ Obschon endlich der Eid, die eignen Pflichten zu erfüllen, grösstentheils überflüssig ist, könne man doch nicht sagen, dass ihm jede Wirkung abgehe und noch viel weniger, dass ihn diejenigen für null und nichtig erklären können, welche sich zu religiösen Principien bekennen; und dann würde eine derartige Ansicht zuviel beweisen, weil sie zur Behauptung führe, dass der Eid in allen Fällen unnütz sei. ¶ Die sich widersprechenden Gründe liessen keine Partei von ihrer These abgehen; eine Annäherung auf diesen Grundlagen schien unmöglich, da die Regierung bei der Eidforderung beharrte, und die Frage blieb ungelöst. ¶ Der Grund hiervon ist, wie die Unterzeichneten aus den verschiedenen Unterredungen mit den der pragmatischen Gesetze des heiligen Stuhles kundigen Personen ersehen konnten, in dem Eide zu suchen, welchen die Päpste bei der Thronbesteigung leisten, die Integrität der weltlichen Herrschaft zu schützen und zu erhalten; ein Eid, um deswillen man festhält, dass sie nicht nur nicht

einwilligen können, sondern sich auch dem Verlangen widersetzen müssen, demjenigen Fürsten den Eid der Treue zu leisten, welcher in ehemals zum Kirchenstaate gehörigen Ländern herrscht. ¶ Aber diese Mittheilungen selbst und vornehmlich die Verfügungen der Bulle *Sollicitudo* überzeugten die Unterzeichneten, dass der heilige Stuhl hätte einen Unterschied machen sollen zwischen den Ländern, welche vormals dem päpstlichen Gebiete unterworfen waren, und denen, welche unter der Herrschaft anderer entthronter Fürsten standen, und dass es räthlich gewesen wäre, in diesen letztern den Eid zu gestatten. Wie dem auch sei, so steht doch fest, dass der Cardinal Staatssecretär diesen Unterschied während der Verhandlungen nicht machte und nicht annahm; alle diese Länder fasste er solidarisch wie unter gleichen Verhältnissen stehend auf, indem er erklärte, er könne in keinem derselben zugeben, dass den Bischöfen der Eid abgenommen werde; und so zeigte sich unter dem politischen Gesichtspunkt das Interesse des heiligen Stuhles mit dem der entthronten Fürsten in dieser Frage solidarisch.

Wie die abweichenden Ansichten über den Eid und das Exequatur sich nicht auf die Diöcesen des alten Königreichs Sardinien, oder der alten Provinzen des Staates erstreckten, für welche der heilige Stuhl erklärte, er mache keine Schwierigkeiten dagegen, dass die Bischöfe sowohl um das Exequatur nachsuchen, als auch den Eid nach der Norm der Concordate leisten sollten, so schlug der heilige Stuhl, um wenigstens zu partiellen Vergleichen zu kommen, vor, dass man sich über die Ernennung der Bischöfe zu denjenigen in den alten Provinzen erledigten Diöcesen einige, mit deren Besetzung die Königl. Regierung sich einverstanden erklärt hatte. ¶ Nach Prüfung des Vorschlages hielten Berichterstatter dafür, ihn nicht annehmen zu können. ¶ Schon in den ersten Instructionen waren sie angewiesen worden, sich nicht auf Verträge einzulassen, welche nicht die Anerkennung des Königreichs Italien als vollendete Thatsache zur Basis hätten; und in den zweiten Instructionen vom 22. Mai, welche den Bevollmächtigten autorisirten, auch zu partiellen Vergleichen schreiten zu dürfen, erhielten sie jedoch gleichzeitig die Anweisung, dass diese die andern Punkte, welche noch offen und unbesprochen wären, nicht verletzten oder beeinträchtigten. ¶ Die Unterhandlungen hatten folgende Wendung genommen und konnten nicht geändert werden, d. h. sie waren eingeleitet und fortgeführt, um die in Italien erledigten Bischofssitze ohne Unterschied zu besetzen, die Zulassung der vor den Verhandlungen für die nicht zu den alten Provinzen gehörigen Diöcesen vorgeschlagnen Bischöfe und die Rückkehr der von ihren Sitzen entfernten Bischöfe zu bewirken; und diese Thatsache konnte nicht ungeschehen gemacht werden. ¶ Wenn das Resultat der Discussionen das gewesen wäre, ausschliesslich die Diöcesen der alten Provinzen des Staates oder auch der Lombardei zu besetzen, so hätte man eine Thatsache genehmigt, welche ausdrücklich die Nichtanerkennung des Königreichs Italien auch als blosses *fait accompli* enthalten, und die andern offen gelassenen Divergenzpunkte beeinträchtigt haben würde. ¶ Und diese Nichtanerkennung, diese Beeinträchtigung würde vermöge einer solchen Beschränkung und Reducirung der Besetzung der Diöcesen noch um vieles offner hervorgetreten sein. ¶ Die Beschränkung hätte in der That die Weigerung des

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heiligen Stuhles, die Bullen für das Exequatur vorzuzeigen und die Eidesleistung von Seiten der Bischöfe der andern Diöcesen des Königreichs zuzulassen zum Motiv gehabt, sowie den Umstand, dass der heilige Stuhl sich hinsichtlich der alten Provinzen des Staates danach gerichtet hätte. ¶ Das Gegentheil würde die folgende stillschweigende aber höchst verständliche Erklärung enthalten haben, dass König Victor Emanuel in den alten Provinzen als König von Sardinien zu betrachten sei, dann aber nicht einmal thatsächlich als König in den andern Provinzen betrachtet werden könne, ja dass man ihm sogar den Besitz der Rechte streitig mache, welche den Fürsten der Provinzen, auf die sich die Besetzungen nicht ausdehnten, in ihren Beziehungen zur Kirche zugestanden. ¶ Wenn die Königl. Regierung die so reducirte Besetzung angenommen, hätte sie, um sich selbst gleich zu bleiben, von den Ernannten das Exequatur und den Eid fordern müssen; nach Realisirung dieser Besetzung wären nur die Besetzungen für die andern Provinzen als Divergenzpunkt übrig geblieben. ¶ Und wären auch die Unterhandlungen über diesen Punkt fortgesetzt oder wieder aufgenommen worden, so hätten sie doch die Regierung noch mehr beschwert, denn sie hätte fortan weder eine allgemeine Dispensation erlassen noch einen Ersatz für den Eid finden können, ohne zwischen den einzelnen Diöcesen einen Unterschied in der Behandlung gelten zu lassen, ein Verfahren, welches für sie unstatthaft gewesen wäre; lässt man dagegen, ohne beschränkte Besetzungen vorzunehmen, den Stand der Dinge unberührt, so kann die Regierung nach ihrem Gutdünken und ohne Nachtheil eine allgemeine Dispensation oder einen Ersatz anwenden. ¶ Hierzu kommt, dass, da sich die religiösen Gründe, welche der heilige Stuhl hat, eine Ausgleichung zu Stande zu bringen, nicht vermindern, dieser eine Annahme solcher Ausgleichung leichter bewilligen wird, und somit auch die Gründe des Widerstandes gegen die Regierung im Volke nicht zunehmen werden. ¶ Zweck der Annahme dieser Unterhandlungen war auch der gewesen, diejenigen zu entwaffnen, welche aus religiösen Gründen der Regierung feindlich gesinnt sind, oder sie der Ungerechtigkeit gegen die Religion und die Kirche zeihen, weil sie gegen die Besetzung der bischöflichen Sitze eingenommen ist. ¶ Hätte man aber schliesslich gesehen, dass man in den verschiednen Provinzen auf verschiedne Weise verführe, in den alten Bischöfe einsetze und in den andern nicht, so hätte die Befriedigung Weniger die Unzufriedenheit Vieler steigern können, ohne dass man durch Bekanntmachung der Gründe der verschiedenartigen Behandlung diese Unzufriedenheit zu beseitigen im Stande wäre; denn bei diesen ins Einzelne eingehenden Verhältnissen lässt sich meistens der grosse Haufe, welcher auf das Allgemeine der grossen Ereignisse sieht, auf Thatsachen an sich nicht ein, ohne bei den immer streitigen Ursachen zu verweilen, von welchen sie möglicherweise abhingen. ¶ Dass der heilige Stuhl die wenn auch nicht officiellen, doch officiösen Gesandten des Königs von Italien angenommen hatte, war vollendete Thatsache; einigte man sich aber über eine auf die Provinzen des alten Sardinischen Reiches beschränkte Besetzung, so bekam die Thatsache ein bei weitem anderes Colorit. ¶ Daher schrieb auch am Tage nach der Sitzung, in welcher die Berichterstatter ausgesprochen hatten, dass sie die Beschränkung der Besetzungen nicht annehmen könnten, eine in Rom durch Geist

und Gelehrsamkeit gleich ausgezeichnete Persönlichkeit, die entweder voraussah, welcher Vorschlag gemacht werden würde, oder davon Kenntniss hatte, ohne jedoch bis dahin von der darauf erfolgten Antwort unterrichtet zu sein, Folgendes an die Unterzeichneten: „Es ist auch zu bedenken, dass man in diesem Punkte (der beschränkten Besetzungen) leicht nachgiebt, weil man sagt: die Verhandlungen in dieser Frage finden nicht zwischen dem Papste und dem König von Italien, sondern zwischen dem Papste und dem Könige von Piemont statt, mit welchem durch einen von Allen angenommenen Vertrag auch die Lombardei annectirt wurde.“ ¶ Obgleich deshalb die Referenten in Erfüllung ihres Mandates dahin wirken zu müssen glaubten, dass, theilweise wenigstens, auch über die andern Punkte irgend ein Vergleich zu Stande käme, so hätten sie doch annehmen müssen, dass sie ganz von den ihnen vorgezeichneten Regeln und den unverkennbaren Absichten der Regierung abwichen, wollten sie die auf die alten Provinzen wie auch auf die Lombardei beschränkten Besetzungen annehmen.

Ueber die Zahl der Sitze, in deren Besetzung die Regierung gewilligt hätte, wurde im Anfange der Wiederaufnahme der Unterhandlungen eine einzige Andeutung gegeben, weil die Verhandlungen fast mit einem Male auf das Exequatur und den Eid übergingen; und die bis jetzt über diese Punkte nicht gelungne Einigung liess die Rede nicht wieder auf diese Sitze zurückkommen. ¶ Man las und hörte wiederholt im Publicum, der Beauftragte der Königl. Regierung habe verlangt, es solle eine neue Eintheilung der Diöcesen vorgenommen werden: dem ist nicht so. ¶ Die Unterzeichneten beschränkten sich darauf, ihre Zustimmung dazu zu geben, dass auf die Ernennung zu einigen Diöcesen und nicht zu allen Bedacht genommen werde; sicher verhehlten sie nicht, dass die Regierung beabsichtige, zu einer neuen Eintheilung zu schreiten, aber sie waren die Ersten, welche erklärten, dass auch abgesehen von dem gegenwärtigen Verhältniss der Beziehungen zwischen dem Staate und der Kirche, eine neue Eintheilung ein langwieriges und genaues Studium über die Wichtigkeit der Sitze, über die Mittel und Wege der Verständigung erfordere, und man nicht gesonnen sei, die Besetzungen so lange aufzuschieben, bis eine so langwierige Arbeit beendigt wäre, und sie gaben nur ihre persönliche Ueberzeugung zu erkennen, dass, wenn die Arbeit einer neuen Eintheilung vollendet oder begründet sei, der heilige Stuhl, wenn sie Ihm zur Begutachtung vorgelegt würde, dieselbe einer Prüfung würde unterwerfen wollen. ¶ Es ist wahr, dass der Cardinal Staatssecretär, als er hörte, dass man nur in die Besetzung von zwei andern Sitzen, ausser den bei Gelegenheit der ersten Verhandlungen bezeichneten, willige, bemerkte, dass das Zugeständniss in hohem Grade verkürzt sei, die von ihm gestellte Mehrforderung beschränkt und vernünftig, und er wünschte so im Fluge die einzelnen Gründe, besonders in Bezug auf Sardinien, kennen zu lernen, aus welchen man Besetzungen für andere Sitze als die schon bewilligten beanspruchte. ¶ Doch die Verträge über diesen Punkt gediehen nicht weiter, aus dem Grunde, weil bis jetzt eine Einigung über die andern Hauptgegenstände und über Principienfragen, welche erst gelöst werden müssten, nicht erlangt war. ¶ Mit diesen Resultaten mussten die Unterzeichneten, welche nicht be-

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rechtigt waren, die Verhandlungen über Gegenstände, worüber keine Einigung erzielt war, für abgebrochen oder definitiv gelöst zu erklären, sich beschränken und beschränkten sich in der That darauf, einen Vertrag über die Rückkehr der von ihren Sitzen abwesenden Bischöfe in der vorher berichteten Conformität abzuschliessen, und davon Act zu nehmen, dass über die andern Gegenstände der Unterhandlungen eine Einigung nicht erzielt worden sei: aber sie nannten die Unterhandlungen weder abgebrochen, noch definitiv geschlossen, damit es den hohen Parteien unbenommen bliebe, sie wieder aufzunehmen, sobald sie es wünschen und für opportun halten. ¶ Die Unterzeichneten hätten, auch in Ansehung des letzten Vorschlages des heiligen Stuhles in Betreff der beschränkten Besetzung der Diöcesen der alten Provinzen, welchen sie nicht annehmen zu können glaubten, nicht anders handeln können, und in dieser Ueberzeugung verabschiedeten sie sich. ¶ Die Unterzeichneten glauben nicht, Ew. Exc. mit weniger wichtigen während der Verhandlungen zur Sprache gekommenen Dingen behelligen zu dürfen, noch mit den vorgebrachten Klagen über Massregeln, welche die Regierung über Gegenstände ergriffen hatte, welche, wenn sie auch nicht zu den Verhandlungen gehörten, sie doch sehr nahe berührten; aber sie können nicht verhehlen, dass diese letzteren Umstände dazu beitrugen, den heiligen Stuhl zu Abschliessung von Verträgen weniger geneigt zu machen. ¶ Die Erkundigungen, welche sie von allen Seiten aufs sorgfältigste einzogen, überzeugten sie, dass die Italien feindliche Partei und jene Diplomatie, welche gemeinschaftliche Sache mit ihr macht, mit allen Kräften agitirten, um zu verhindern, dass die Verhandlungen mit einer vollständigen Einigung abgeschlossen würden; aber eben diese Agitation hatte Unterzeichnete in der Ueberzeugung befestigt, dass das Gelingen der Verhandlungen, welches viele Feindseligkeiten entwaffnen und den Weg bahnen würde, auf dem die Berührungs- und wiederholten Anknüpfungspunkte mit Rom vervielfältigt werden können, die Quelle und das Mittel zu vielen und grossen Vortheilen werden dürfte. ¶ Theils deshalb, theils im Bewusstsein der Pflicht, welche ihnen das ehrenvolle Mandat gebot, theils aus Freude, welche man nothwendigerweise empfinden muss, das Werk, das man begonnen, gelungen zu sehen, widmeten sie der Erfüllung ihrer Mission alle Kraft des Willens und handelten nach bester Ueberzeugung, und, indem sie ihr Mandat in die Hände ihrer Regierung zurückgeben und den Bericht ihrer Wirksamkeit überreichen, bedauern sie lebhaft, nur sagen zu können, dass sie die Rechte und die Würde des Staates unverletzt und unbeschädigt aufrecht erhalten haben. ¶ Ew. Exc., etc.

F. S. Vegezzi. Giovanni Maurizio.

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ITALIEN. — Min. d. Ausw. an die Kön. dipl. Agenten im Auslande. — Die Unterhandlungen mit dem heil. Stuhl betr. —

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Florence, 5 juillet 1865.

Monsieur, — Par une lettre en date du 6 mars, adressée à S. M. le Roi Victor Emmanuel II, le Saint-Père manifesta les préoccupations que lui cau-

sait la vacance d'un si grand nombre de siéges épiscopaux en Italie, et exprima le désir d'une entente qui mît fin à cet état de choses. ¶ Sa Majesté et son Gouvernement, qui ont toujours eu pour principe de séparer entièrement les choses de la religion de celles de la politique, accueillirent avec empressement les ouvertures du Saint-Père. La question des évêchés vacants, purement ecclésiastique, offrait, selon nous, à la condition que des deux parts on la traitât comme telle, une heureuse occasion de prouver au Saint-Père que son autorité spirituelle est entourée, en Italie, d'un respect aussi profond et d'une déférence plus grande peut-être que dans la plupart des autres États catholiques. Le commandeur Vegezzi, qui se recommandait également par ses qualités personnelles à la confiance du Saint-Père et à celle du Roi, fut chargé de se rendre à Rome pour établir, d'accord avec le Saint-Siége, les points sur lesquels l'entente devait avoir lieu, et pour procéder à un échange de vues préliminaire sur les moyens d'arriver à cette entente. ¶ Le commandeur Vegezzi devait naturellement se borner, dans ses entretiens, à la question des évêchés vacants. Les autres questions relatives à la situation de l'Église catholique qui impliquent de graves intérêts de l'ordre civil, telles que celles des corporations religieuses, de la propriété ecclésiastique, etc., devaient être rigoureusement écartées. Il ne pouvait donc être question d'un concordat, d'un règlement des rapports à venir de l'Église et de l'État; il s'agissait uniquement de pourvoir d'un commun accord à une situation donnée, dans un intérêt actuel de l'ordre religieux, sans préjuger aucun droit et sans engager l'avenir. Il est à peine besoin d'ajouter que le Gouvernement Italien ne traitant qu'avec le Père des fidèles, et non avec le Souverain des États romains, les négociations n'avaient à toucher d'aucune manière aux problèmes politiques actuellement pendants entre la Cour de Rome et la nation italienne. Ces limites étaient posées d'avance à la discussion comme raisonnables en elles-mêmes, et comme étant d'ailleurs indispensables pour arriver actuellement à un accord. ¶ Le premier voyage du commandeur Vegezzi à Rome, l'audience qu'il eut l'honneur d'avoir de Sa Sainteté et les conférences qui furent tenues entre le cardinal Secrétaire d'État et lui, eurent pour résultat la constatation des points à régler et l'échange de témoignages réciproques et de vues communes qui donnèrent au Gouvernement du Roi l'espoir qu'un accord pourrait se réaliser. ¶ Les points désignés étaient les suivants: — ¶ Retour des évêques éloignés de leurs diocèses; — ¶ Installation des évêques préconisés depuis 1859; — ¶ Nomination aux évêchés qui n'ont pas de titulaires.

Le commandeur Vegezzi fit connaître que le Gouvernement du Roi, fidèle à ses tendances, était disposé à faire aux prérogatives spirituelles du Saint-Siége les concessions les plus larges, en même temps qu'il maintiendrait les droits du pouvoir civil et les prérogatives de la Couronne. ¶ De son côté, le Saint-Siége admettait le principe de l'ingérence du Gouvernement dans les nominations et celui de la convenance de modifier successivement, avec les égards et après les études convenables, la circonscription des diocèses. ¶ A l'égard des questions de personnes et des détails de l'arrangement, ce qui en fut dit dans ces premiers pourparlers suffit pour qu'il parût assuré qu'il n'existait là-dessus aucun empêchement grave à une entente. Sur ces entrefaites, le car-

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dinal Secrétaire d'État et l'Envoyé du Gouvernement ayant reconnu l'opportunité de préparer les éléments définitifs de l'accord, le commandeur Vegezzi se rendit à Turin pour recevoir des instructions détaillées et précises. ¶ Ces instructions furent arrêtées sur les bases suivantes: ¶ Le retour des évêques absents admis en général sous les restrictions et exceptions reconnues d'un commun accord opportunes; ¶ La reconnaissance des évêques préconisés, sauf des exceptions que, par des considérations spéciales, le Saint-Siége n'excluait pas entièrement; ¶ La nomination aux évêchés dépourvus de titulaires, limitée aux siéges épiscopaux qui devraient être conservés lors d'une révision ultérieure des circonscriptions diocésaines; ¶ Les prérogatives royales de l'exequatur et du serment actuellement maintenues sans distinction pour tous les nouveaux évêques, d'après le droit public en vigueur en Italie, mais appliquées dans des formes qui ne puissent ni alarmer les susceptibilités légitimes de la Cour de Rome, ni impliquer des questions politiques. ¶ Ces propositions, qui n'étaient que le développement des déclarations faites dans les premiers pourparlers, furent apportées à Rome par le commandeur Vegezzi. Le Saint-Siége ne méconnut pas la valeur des concessions faites par le Gouvernement du Roi sur le fond même de la question, où aucune difficulté d'ordre politique ne pouvait intervenir. Mais à l'égard de l'exequatur et du serment, une opinion soutenue dans certaines régions à Rome et qu'appuyaient de tout leur pouvoir de hautes influences, voulait qu'ils fussent refusés, afin qu'aucun acte du Sainte-Siége ne parût impliquer même la constatation de fait de l'existence du Royaume d'Italie. ¶ Le Saint-Père prit néanmoins en sérieuse considération les propositions du Gouvernement du Roi sur ces deux points, et les soumit à l'examen d'une Congrégation et de plusieurs notabilités ecclésiastiques. Celles-ci prirent des délibérations absolument contraires à l'exequatur et au serment, non-seulement à l'égard des anciennes provinces du Saint-Siége, mais à l'égard même de toutes les provinces annexées au Royaume depuis la guerre de 1859. Cette décision ne permettait plus de tomber d'accord que sur un seul point, celui du retour des évêques absents, point qui fut réglé en effet à l'amiable. ¶ En vain le commandeur Vegezzi fit-il observer que le Gouvernement du Roi n'entendait point que la Cour de Rome eût à confirmer l'ordre des choses établi en Italie; que le serment et l'exequatur, prérogatives inaliénables dans les circonstances présentes, constataient seulement ces devoirs de soumission au Souverain régnant et d'obéissance aux lois établies, lesquels ont toujours été recommandés par l'Église à ses ministres et aux fidèles; que nous ne demandions pas au Saint-Siége d'ordonner aux évêques de prêter serment et de se soumettre à l'exequatur, mais que nous lui faisions simplement connaître que ces actes seraient requis des évêques par le Gouvernement. La Cour de Rome persista à transformer la question religieuse en question politique. ¶ Le commandeur Vegezzi prit donc congé de Sa Sainteté, en lui exprimant au nom du Gouvernement du Roi le regret que nos concessions n'eussent pas paru suffisantes, et en ajoutant que pour ne pas laisser sans résultat, en ce qui dépendait de lui, l'initiative prise par Sa Sainteté, le Gouvernement pourvoirait de la manière convenue au retour des évêques absents de leurs siéges. ¶ Ces négociations auront eu pour résultat au moins de constater que sur les questions

ecclésiastiques et religieuses un accord serait facile entre l'Italie et le Saint-Siége, et que les difficultés actuelles tiennent uniquement aux préoccupations politiques qui dominent encore à Rome. ¶ L'initiative prise par le Saint-Père permet d'espérer que ces préoccupations iront en diminuant. Désormais la situation ne sera peut-être plus aussi tendue entre le Saint-Siége et l'Italie; les égards marqués avec lesquels l'Envoyé du Gouvernement a été reçu par le Saint-Père, notamment dans son audience de congé, et les démarches de haute courtoisie dont il a été l'objet de la part des personnages de la Cour pontificale laisseront leur trace, nous aimons à le croire, dans les relations à venir de Rome avec l'Italie. ¶ A mesure que les illusions qui règnent à Rome s'effaceront, que les ingérences qui nous sont hostiles cesseront de peser, dans des intérêts étrangers à la religion, sur les délibérations de l'Église, l'attitude du Saint-Siége envers l'Italie achèvera sans doute de se modifier, et le Gouvernement du Roi pourra faire de nouveaux pas dans la voie des concessions dont le terme définitif sera la plus grande liberté possible de l'État et de l'Église. ¶ Agréez, etc.

La Marmora.

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No. 2193.

ITALIEN. — Min.-Präsid. u. Min. d. Ausw. an den König Victor Emanuel. — Bericht über die vorangegangenen Unterhandl. mit d. heil. Stuhl. —

No. 2193. Italien, 8. Juli 1865.

Sire! Sobald Ew. Maj. geruht hatten, mir das Handschreiben Sr. Heiligkeit Pius IX. vom 6. März dieses Jahres mitzutheilen, machten es meine Collegen und ich sofort zum Gegenstande unserer Berathungen und waren einstimmig der Ansicht, dem Schreiben des Heiligen Vaters Folge zu geben, sowohl aus Ehrfurcht gegen das Haupt der katholischen Kirche, als auch wegen der Natur des Schreibens selbst, welches zwar nur die Verhältnisse der Executivgewalt und rein kirchliche und geistliche Interessen berücksichtigt, auf das wir aber gleichwohl einen grossen Werth legen müssen, weil es der öffentlichen Meinung und den Gefühlen der grossen Majorität der Nation und dem Einflusse, welchen diese auf die sittlichen Verhältnisse und auf die Eintracht und Ruhe des Landes ausübt, Rechnung trägt. ¶ In dieser Ansicht bestärkte uns die Erwägung der erheblichen Vortheile, welche wir daraus ziehen würden, wenn wir über die drei Hauptpunkte, auf welche der heilige Vater die Aufmerksamkeit Ew. Maj. gelenkt hatte, zu einer Einigung mit dem heiligen Stuhle gelangten: nämlich die Rückkehr der von ihren Sitzen abwesenden Bischöfe, die Besetzung der vacanten Sitze und die Zulassung der früher ohne Einverständniss der Regierung in einigen Provinzen des Königreichs präconisirten Titularbischöfe. ¶ Dem ersten Punkte hatten wir schon seit längerer Zeit in Folge der dringenden Wünsche des der Rückkehr seiner Seelenhirten theils günstig gestimmten theils abgeneigten Volkes unsere Aufmerksamkeit schenken müssen, und konnten wir einem Auskunftsmittel unsere Mitwirkung nicht versagen, welches die Würde der Regierung wahrte und mit den Regeln der weltlichen Klugheit übereinstimmte. Der zweite Punkt bot uns Gelegenheit, den heiligen

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Stuhl über die Absichten der Regierung in Betreff der Eintheilung der Diöcesen des Königreichs aufzuklären und Ihn um Seine Zustimmung zu ersuchen, dass solange die neue Eintheilung nicht definitiv festgesetzt sei, diejenigen bischöflichen Sitze vacant gelassen würden, welche man wegen ihrer geringen Bedeutung oder aus andern Gründen aufzuheben beabsichtige. Der dritte Punkt machte es uns möglich, einem Uebelstande abzuhelfen, welcher die Prärogative der Krone und des Staates beeinträchtigte und zu verschiednen Bemerkungen und Klagen Anlass gegeben hatte. ¶ Während wir aber das Vertrauen hegten, dass der heilige Vater, indem Er Sich an Ew. Maj. wendete, Sich die eigenthümliche Lage einer Repräsentativregierung, sowie die specielle Lage des Königreichs Italien und Ihre Loyalität und Festigkeit vergegenwärtigt haben müsse, glaubten wir auch andrerseits, dass Sich der heilige Stuhl von jenen weisen Traditionen, welche Ihn bei mehreren Gelegenheiten die Behandlung der geistlichen Angelegenheiten von jedem politischen Streitpunkte trennen liessen, leiten lassen werde: Traditionen, welche in der Bulle des Papstes Gregor XVI. *Sollicitudo ecclesiarum,* welche das Datum des 5. August 1831*) trägt, feierlich sanctionirt wurden. Deshalb kamen wir in unseren Berathungen zu dem Resultate, dass der Wunsch des heiligen Vaters, einen Laien als Bevollmächtigten nach Rom abzuordnen, unterstützt werden könne und müsse, um über die drei genannten Punkte zu conferiren und einen Modus ausfindig zu machen, nach welchem irgend ein Ausgleich zu erzielen wäre. ¶ Ihre Regierung zögerte deshalb nicht vorzuschlagen und Ew. Maj. einzuwilligen, dass der ehrwürdige Deputirte Commandeur Xaver Vegezzi, dem man als Collegen und Mitarbeiter den Ritter Advocat Johann Maurizio beigesellte, mit dieser Mission betraut würde. ¶ Die ihnen ertheilten Instructionen setzten vor Allem fest, dass die Conferenzen sich von jeder politischen Frage fern hielten und jeden Gegenstand ausschlössen, welcher sich nicht auf die obenerwähnten Punkte bezöge, und insbesondere jede Frage, welche in die Competenz der legislativen Gewalt einginge. Zweitens erklärten sie, dass, während es im Verlaufe der Conferenzen oder der folgenden Verhandlungen nicht nöthig sei, die Anerkennung der Regierung Ew. Maj. von Seiten des heiligen Stuhles zu verlangen, um nicht den Conferenzen und Verhandlungen selbst ihren eigentlichen Charakter des Versuches einer Einigung über rein religiöse und geistliche Interessen zu benehmen, man weder bewilligen könne noch dürfe, dass sie im Ganzen oder in einzelnen speciellen Punkten die Negirung der thatsächlichen Existenz des Königreichs Italien enthalten, da die Regierung Ew. Maj., wenn sie auch einer förmlichen Anerkennung von Seiten des heiligen Stuhles nicht bedarf, es doch für ihr Recht und ihre Pflicht hält, sich zu keinem Act herbeizulassen, welchen man für eine Verzichtleistung auf die Ausübung der Oberhoheit und der Königl. Prärogative in irgendwelchem Theile des Königl. Territoriums erklären könnte. ¶ Die Instructionen über die drei Punkte lauteten, dass man in die Wiedereinsetzung derjenigen Bischöfe in ihre Stellen willige, deren Rückkehr eine Störung der öffentlichen Ruhe nicht verursachen könne, und welche Garantie leisteten, dass sie sowohl selbst die

*) Siehe Anmerkung zu No. 2191.

Gesetze des Staates beobachten, als auch ihre Geistlichkeit zur Beobachtung derselben anhalten würden; zweitens dass von den vacanten Sitzen nur diejenigen besetzt würden, welche man bei der künftigen Eintheilung der Diöcesen des Königreichs beizubehalten gesonnen sei; dass die Präsentation der Untergebnen bei Ew. Maj. mit der vorgängigen Genehmigung des heiligen Stuhles geschehe, und dass man aus dieser Präsentation durch den Act der Präconisation und durch die Bullen ersehe, dass letztere dem Königl. Exequatur untergeordnet sein würden; dass endlich mancher früher präconisirte Titularbischof aus wichtigen Gründen des öffentlichen Wohles und politischer Convenienz nicht zugelassen würde, und dass die andern, bei welchen keine Ausnahmsgründe in Anwendung kommen müssten, angenommen werden würden, wenn nur sonst der heilige Stuhl einwillige, dass die zu solchen Stellen, welche man einziehen wolle, Präconisirten in andere Stellen versetzt würden und wenn dies sich aus ihrer Präsentation bei Ew. Maj. in den Bullen ergebe, welche ebenfalls dem Königl. Exequatur untergeordnet sein müssten. ¶ Nachdem auf solche Weise jene Principien gesichert waren, welche jede weltliche Regierung die gemessene Pflicht hat zu schützen, trug die Regierung Ew. Maj. kein Bedenken, die Verhandlungen anzubahnen, indem sie sich einerseits auf die Einsicht ihrer Unterhändler verliess, und auf der andern Seite ein Unterpfand hatte, dass das Land, in welchem bei der ersten Nachricht hiervon eine gewisse Besorgniss rege geworden war, jedes Misstrauen aufgeben würde, sobald es vollständige und genaue Kenntniss von den Normen haben würde, welche sich die Regierung vorgezeichnet hatte und welche sie für ihre Schuldigkeit hielt, ohne Verzug durch das vom Minister des Innern an die Präfecten des Königreichs erlassene Circular am 2. Mai d. J. bekannt zu machen. ¶ Die Verhandlungen gingen durch zwei Stadien, welche durch die beiden Reisen bezeichnet sind, die die Unterhändler im April und Juni nach Rom unternahmen. Vom heiligen Vater mit Beweisen besondern Wohlwollens empfangen, die hauptsächlich der erhabnen Person Ew. Maj. galten, konnten sie das erste Mal nur die Absichten der Regierung Ew. Maj. zu erkennen geben und die des heiligen Stuhles entgegennehmen, des Inhalts, dass, wie es bei jeder Unterhandlung der Fall zu sein pflegt, mit Vorbehalt der Principienfragen, über die minder wichtigen Punkte ein passendes Abkommen getroffen werden könne. Und in der That, wie sie den heiligen Stuhl insofern nachgiebig fanden, als Er nicht die Rückkehr aller abwesenden Bischöfe ohne Unterschied verlangte, so gaben sie zu verstehen, dass die Regierung Ew. Maj. die Absicht aufgegeben habe, an die Rückkehr besondere Bedingungen zu knüpfen; und wie der heilige Stuhl die Opportunität einer neuen Eintheilung der Diöcesen des Königreichs ganz abgesprochen hatte, so glaubten sie nicht auf einer gemessenen Zahl der vacant zu haltenden oder zu besetzenden Stellen verharren zu müssen, da leicht einzusehen war, dass man unter solchen Verhältnissen einen Weg einschlagen müsse, der zwischen dem der Regierung und dem des heiligen Stuhles die Mitte hielt, in richtiger Würdigung der Gründe, welche von beiden Parteien zur Unterstützung des einen oder des andern Weges vorgebracht werden würden. Auf gleiche Weise gaben die Unterhändler, da der heilige Stuhl keine entschiedne Abneigung zeigte, in die Absichten der Regie-

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rung über einige bereits präconisirte Bischöfe einzugehen, die Bereitwilligkeit der Regierung zu erkennen, dem heiligen Stuhle Mittel an die Hand zu geben, die Lage aller übrigen zu sichern, soweit es Anstand und Convenienz gestatten. ¶ Aber um die Regierung von den vom heiligen Stuhle geäusserten Absichten mündlich in Kenntniss zu setzen, und hauptsächlich, um sie über die in den Conferenzen über das Exequatur der Ernennungsbullen der Bischöfe und über den Eid erhobnen Schwierigkeiten aufzuklären, erbaten und erhielten die Unterhändler die Genehmigung, an den Sitz der Regierung zurückzukehren. Die Mittheilungen des Commandeurs Vegezzi wurden von uns aufgenommen und gewürdigt, wie es die Wichtigkeit der Sache erheischte, und gaben uns besonders über die beiden obenerwähnten Punkte zu reiflichen Erörterungen Anlass. Hinsichtlich des ersten Punktes wurde anerkannt, dass die Regierung Ew. Majestät auf eine so werthvolle Garantie der weltlichen Herrschaft, wie es die Concession des Exequatur bei den päpstlichen Besetzungen ist, welche einen Theil unsers innern Staatsrechts bildet, welche im Artikel 18 des Statuts unter den der Krone vorbehaltnen Prärogativen enthalten ist, und welche unser Staat fast mit allen andern katholischen Staaten gemein hat, nicht verzichten könne. Was den zweiten Punkt betrifft, so wurde, obgleich es angemessen scheinen konnte, die Bischöfe in Folge jener Grundsätze bürgerlicher und religiöser Freiheit und der Trennung der Kirche vom Staate, zu welcher die Regierung Ew. Maj. Sich zu bekennen Sich zur Ehre anrechnet, von der Eidespflicht zu entbinden, dennoch beschlossen, da eine solche Verbindlichkeit durch Ausnahmegesetze im bei weitem grössten Theile des Königreichs geboten ist und für die verschiednen Provinzen eine Verschiedenheit des Verfahrens nicht zulässig sein könne, ihn beizubehalten, in der Fassung jedoch, dass es zu seiner Aufhebung einer legislativen Vorsichtsmassregel bedürfe. ¶ Bei diesem Punkt wurde ferner in Erwägung gezogen, dass es in fast allen katholischen Staaten Gebrauch ist, die Bischöfe zur Eidesleistung zu verpflichten und dass, würden sie in unserm Königreiche davon befreit, man dies nicht sowohl den liberalen Gesinnungen der Regierung Ew. Majestät, als vielmehr einer aus politischen Gründen beliebten Concession beimessen würde. Auch glaubte man nicht, dass der heilige Stuhl hierbei unüberwindliche Schwierigkeiten erheben würde, falls Er entschlossen wäre, für die religiösen und geistlichen Interessen unseres Königreichs Sorge zu tragen, da ja die Erhaltung der bürgerlichen Eintracht mit diesen Interessen in Einklang steht und die Bischöfe, welche bei uns wie überall eingesetzt sind, um Barmherzigkeit und Frieden zu predigen, schwerlich im Stande sein würden, alle ihre Amtspflichten mit der gehörigen Wirkung auf die Geistlichen und das Volk ihrer Diöcesen auszuüben, wenn sie nicht den meisten katholischen Bischöfen gleichgestellt wären und zugleich der Mehrzahl der anerkannten Traditionen der Kirche und jenen hohen Unterweisungen derselben huldigten, welche Gehorsam gegen alle Obrigkeit gebieten. ¶ Die Unterhändler erhielten nichtsdestoweniger mit der Bestätigung ihrer ursprünglichen Instructionen auch den Auftrag, auf den Eid der Bischöfe nach der im Königreich angenommenen Formel zu dringen, welche zudem von jener servilen und der Würde des Episcopats nachtheiligen Beimischung frei ist, der man in andern

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Formeln begegnet, ferner die Präsentation der Bullen für das Königl. Exequatur zu verlangen, mit der Beschränkung jedoch, dass es ihnen gestattet sei, hinsichtlich des letztern Punktes auch in eine gemässigtere Form zu willigen, sofern nur die Sanction der Regierung im Wesen gewahrt werde, dass es ferner gestattet sei, die etwaige Einigung mit dem heiligen Stuhle auf eine exceptionelle Uebereinkunft zu beschränken und auch partielle Uebereinkünfte über den einen oder andern Gegenstand der Verhandlungen zu treffen, wenn sonst den andern unerledigt gebliebenen Punkten dadurch nicht vorgegriffen würde. ¶ Mit diesen neuen Instructionen versehen, kehrten die Unterhändler nach Rom zurück; aber leider fanden sie hier nicht mehr die versöhnliche Stimmung, die im ersten Stadium der Unterhandlungen zu Rom geherrscht hatte, und obgleich ihnen auch jetzt eine zuvorkommende Aufnahme bereitet wurde, mussten sie doch gewahr werden, dass ein feindlicher Einfluss den glücklichen Fortgang der Verhandlungen durchkreuzt hatte. ¶ Es ist nicht Sache der Regierung Ew. Maj. zu untersuchen, welche Rathschläge auf den heiligen Stuhl dermassen eingewirkt haben, dass sie Ihn der Einigung, zu welcher Er im Anfange geneigt schien, ganz unzugänglich machten; und noch weniger will sie auf die Argumente zurückkommen, durch welche Er sich bewogen fühlen mochte, unsere Vorschläge zurückzuweisen. Ew. Maj. Regierung respectirt die Unabhängigkeit des heiligen Stuhles, und es kann nicht ihre Aufgabe sein, sich mit Ihm in irgend einen Principienstreit einzulassen, obgleich ihr ältere und respectirte Traditionen, die Doctrinen bedeutender Lehrer des Kirchenrechts und Proceduren des heiligen Stuhles selbst aus nicht fernen, der Gegenwart nicht unähnlichen Zeiten gegen eine Regierung, welche fast in derselben Lage war wie die Italienische Regierung, wohl Stoff dazu geboten hätten. Wenn wir uns aber vorgenommen haben, die Unabhängigkeit des heiligen Stuhles zu respectiren, dürfen wir nicht weniger die Unabhängigkeit der Regierung Ew. Maj. respectiren; und wenn wir bedauern müssen, dass unsere Vorschläge behufs Geltendmachung der religiösen und geistlichen Interessen im Königreich nicht angenommen wurden, so haben wir doch auch wiederum keinen Grund dazu, wenn diese Weigerung deshalb erfolgte, weil wir die Prärogative der weltlichen Herrschaft zu wahren und das nationale Recht, aus welchem die Regierung Ew. Maj. ihre grösste Macht herleitet, unangetastet zu erhalten entschlossen waren. Dem ist jedoch hinzuzufügen, dass wir von unsern ursprünglichen Vorschlägen nicht um ein Haar abwichen und an unsern den Unterhändlern ertheilten Instructionen keine wesentliche Aenderung vornahmen, da wir von vorn herein den Vorbehalt wegen des Exequatur machten und uns nur genöthigt sahen, unsere Ansichten über diesen Punkt den Einwendungen des heiligen Stuhles gegenüber zu erkennen zu geben, sowie wir auch deutliche Erklärungen über den Eid der Bischöfe geben mussten, nachdem wir erfahren hatten, dass der heilige Stuhl diesen Punkt zu einer Frage von Wichtigkeit erhob. Uebrigens ist leicht einzusehen, dass die Regierung Ew. Maj. im Bewusstsein ihres Ursprungs und ihrer Pflichten gegen das Parlament und das Land, sich keine andern Regeln bei den unternommenen Verhandlungen als die hier angeführten vorzeichnen konnte, während man fragen kann, welches die Absichten des heiligen Stuhles waren, als Er sie in Folge des Vorschlages begünstigte, welcher aus

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freien Stücken und mit dem ausdrücklichen Willen Sr. Heiligkeit des Papstes Pius IX. gemacht wurde, wenn Er nicht glaubte, dass die Regierung Ew. Maj. nicht so weit gehen konnte, sich selbst zu verleugnen und allen Grundsätzen untreu zu werden, welchen jede unabhängige Regierung huldigt. ¶ Dass unsere Vorschläge in Betreff des Eides der Bischöfe und des Exequatur zurückgewiesen wurden, verursachte den Abbruch der Unterhandlungen über die anderen Punkte, und hatten diese daher auch keinen weitern Erfolg als den, dass die Regierung Ew. Maj. erklärte, sie werde von dem Entschlusse nicht abgehen, in die allmähliche Rückkehr der abwesenden Bischöfe zu willigen, welche, ohne Volksaufstände zu befürchten, in ihre Stellen wieder eingesetzt werden können, da dies nur eine schon vorher von der Regierung selbst der Ordnung im Innern wegen beschlossene Massregel war. ¶ Hierauf kehrten die Unterhändler, durch Erfüllung einer schweren Pflicht und die Bemühungen, die Rechte und Würde des Staates unverletzt zu bewahren, um ihr Vaterland wohlverdient zurück und legten ihr Mandat nieder. ¶ Mit dieser kurzen Darstellung glaubte ich einer Pflicht zu genügen, welche mir oblag, im Einverständniss mit meinen Collegen Ew. Maj. über einen Gegenstand von so hoher Wichtigkeit, über den so abweichende Urtheile entstanden und welcher so verschiedene Erwartungen erregte, genaue Kenntniss zu verschaffen. Ew. Maj. werden hier alle Einzelnheiten, welche Ihnen schon aus den Berathungen der Minister Ihrer Krone, an denen Sie Theil nahmen, bekannt sind, treu wiedergegeben finden. Wenn Sie auch mit uns bedauern, dass die Verhandlungen mit dem heiligen Stuhle den gewünschten Erfolg nicht gehabt haben, so werden Sie doch, wir sind überzeugt, mit dem ganzen Lande anerkennen, dass bei dieser Gelegenheit die Rechte der Nation und des Thrones unverkürzt gewahrt wurden, während man aufrichtig denjenigen geistlichen und religiösen Interessen Rechnung zu tragen suchte, welche man nie mit andern Interessen verwechseln sollte. Vielleicht ist der Tag nicht fern, an welchem die heiss ersehnte Trennung der Kirche vom Staate die vollständige Absonderung der religiösen und geistlichen Interessen von den politischen zur Folge hat zum gemeinsamen Vortheil der Kirche und des Staates und insbesondere zu Nutz und Frommen Italiens, welchem durch diese Verwechslungen so langwierige und schmerzliche Prüfungen bereitet wurden. Indessen wird es sich aber die Regierung Ew. Maj. zur Ehre anrechnen, ihrer Verbindlichkeit, die politischen Interessen zu sichern, nachgekommen zu sein, während sie es stets für ihre Pflicht und ihren Ruhm halten wird, den religiösen und geistlichen Interessen in denjenigen Grenzen zu genügen, welche durch ihre eigne Beschaffenheit, durch die Gesetze des Königreichs und den Massstab der heutigen Gesittung vorgezeichnet sind.

Florenz, 8. Juli 1865.

Der Ministerpräsident
Minister Staatssecretär des Auswärtigen
Alfons La Marmora.

No. 2194.

ITALIEN. — Geschäftstr. in Madrid an den Kön. Min. d. Ausw. — Absicht der Span. Regierung, das Königreich Italien anzuerkennen. —

Madrid, 24. Juni 1865. (Erhalten den 29.)

No. 2194. Italien, 24. Juni 1865.

Herr Minister! Der neue Ministerpräsident, General O'Donnel, bekundete in seinem Parlamentsprogramm den Willen der Regierung, das Königreich Italien anzuerkennen. Heute nun erklärte mir der Minister des Auswärtigen, Herr Bermudez de Castro, mündlich aber officiell, dass das Cabinet die Leitung der Staatsgeschäfte mit dem festen Willen übernommen habe, die Anerkennung des Königreichs Italien sobald als möglich ins Werk zu setzen, dass es mich beauftrage, die Königl. Regierung von dieser Entschliessung in Kenntniss zu setzen, und dass es zugleich das Vertrauen hege, beide Regierungen würden sich dahin einigen, eine Form der Anerkennung ausfindig zu machen, welche beider würdig sei und mit den politischen und religiösen Meinungen beider Länder übereinstimme. Herr Bermudez bezeichnete es als den festen Willen des Cabinets, diese Angelegenheit zu Ende zu führen, indem es jetzt auf die vollständige Zustimmung Ihrer Maj. der Königin rechne. ¶ Ich hielt es für Pflicht, Ew. Exc. sofort durch den Telegraph davon in Kenntniss zu setzen, und dies jetzt, wie oben, bestätigend, sehe ich den Instructionen entgegen, welche Sie mir gefälligst ertheilen wollen. ¶ Genehmigen Sie, etc.

Cavalchini.

No. 2195.

ITALIEN. — Geschäftstr. in Madrid an den Kön. Min. d. Ausw. — Weiteres über die bevorstehende Anerkennung d. Königreichs Italien von Seiten Spaniens. —

Madrid, 27. Juni 1865. (Erhalten den 2. Juli.)

No. 2195. Italien, 27. Juni 1865.

Herr Minister! Hierdurch beehre ich mich, Ew. Exc. zu benachrichtigen, dass der Minister des Auswärtigen Ihrer Kath. Majestät am heutigen Tage an die Spanischen Vertreter im Ausland ein Circular erliess, welches die Aufgabe hat, die Politik des gegenwärtigen Cabinets zu erklären. In diesem Document ist die bevorstehende Anerkennung des Königreichs Italien mit klaren und zufriedenstellenden Worten angezeigt, und die Gründe angeführt, mit welchen Herr Bermudez de Castro diesen Entchluss dem Nuntius Sr. Heiligkeit, welcher sogleich versuchte, dem Spanischen Cabinet die Anerkennung zu widerrathen, motiviren zu müssen glaubte. ¶ Der Spanische Geschäftsträger bei der Königl. Regierung, Herr Zarco de Valle, welcher jetzt auf Urlaub hier verweilt, hat vom Ministerium Auftrag erhalten, sogleich auf seinen Posten zurückzukehren, da Herr Bermudez nicht wünscht, dass seine Abwesenheit unrichtigen Deutungen ausgesetzt sei. ¶ Ich ersuche Ew. Exc., etc.

Cavalchini.

No. 2196.

ITALIEN. — Geschäftstr. in Madrid an den Kön. Min. d. Ausw. — Weiteres über die bevorstehende Anerkennung des Königr. Italien von Seiten Spaniens. —

Madrid, den 29. Juni 1865. (Erhalten den 4. Juli.)

No. 2196. Italien, 29. Juni 1865.

Herr Minister! Ich hatte die Ehre das Telegramm zu empfangen, durch welches Ew. Exc. mir auftrug, dem Ministerium des Auswärtigen mündlich mitzutheilen, dass die Regierung Sr. Maj. des Königs mit Vergnügen sehen würde, wenn die Spanische Regierung Italien anerkenne, und dass hinsichtlich der Form Ew. Exc. keine andere mittheilen könnte als die bereits von verschiedenen katholischen Mächten angewendete, nämlich die reine und einfache Anerkennung. Ich sah diesen Morgen Herrn Bermudez de Castro und theilte ihm die erhaltene Antwort mit. ¶ Der Herr Staatsminister drückte mir den Wunsch aus, die Bedeutung kennen zu lernen, welche die Regierung des Königs der Wiederherstellung der diplomatischen Beziehungen zwischen Italien und Spanien beilege; er sagte mir, er wünsche ausserdem bei der Anerkennung die Gründe darzulegen, aus welchen Spanien jetzt erst, nachdem seit der Constituirung des Königreichs Italien vier Jahre verflossen seien, zu derselben schreite, unter welchen Gründen er hauptsächlich die Convention vom 15. September anführte, über deren Auslegung er einige Erklärungen von Seiten der Spanischen Regierung für nothwendig zu halten scheint. ¶ Herr Bermudez de Castro sprach auch von Besitzungen im Königreich, welche, wie er glaubt, den Bourbonen gehören sollten, und drückte mir den Wunsch aus zu erfahren, ob die Regierung des Königs geneigt sei, ihnen diejenigen Güter zu lassen, deren privativer Charakter anerkannt würde. ¶ Genehmigen Sie, etc.

Cavalchini.

No 2197.

ITALIEN. — Min. d. Ausw. an den Kön. Geschäftstr. in Madrid. — Auseinandersetzungen über die Bedeutung und Tragweite, welche die Ital. Regierung der Anerkennung von Seiten Spaniens beilegt. —

Florence, 5 juillet 1865.

No. 2197. Italien, 5. Juli 1865.

Monsieur le Baron, vos derniers rapports m'apprennent que le Gouvernement Espagnol a l'intention de reconnaître le Royaume d'Italie. Le Gouvernement du Roi a été très-sensible à cette détermination bienveillante du Cabinet de Madrid, et attache un haut prix aux dispositions amicales qui lui sont témoignées dans cette circonstance. ¶ Je vous prie, Monsieur le Baron, d'être auprès du Ministre des Affaires Étrangères de Sa Majesté la Reine l'interprète de ces sentiments, en lui donnant l'assurance qu'ils sont partagés par Sa Majesté le Roi et par l'Italie entière. ¶ Toutefois S. E., M. Bermudez de Castro vous a exprimé le désir de s'entendre avec nous sur la signification que devrait avoir la reconnaissance du Royaume d'Italie par l'Espagne. ¶ Il me suffira à cet égard

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de dire que le Gouvernement du Roi regarde la reconnaissance d'un État par un autre État comme n'ayant par elle-même ni plus ni moins de portée que le rétablissement pur et simple entre eux de relations diplomatiques régulières, et comme ne pouvant en aucune façon avoir pour effet de lier la politique de l'un des deux Gouvernements à celle de l'autre. ¶ Il ne peut y avoir lieu là-dessus à aucune difficulté entre l'Italie et l'Espagne. ¶ Vous m'écrivez encore, Monsieur le Baron, que le Gouvernement Espagnol désire baser, dans ses communications officielles, sa résolution de nous reconnaître sur le fait de la conclusion de la Convention du 15 septembre. Pour ne donner lieu à aucune équivoque, je crois convenable d'établir à cet égard deux points qui ne sauraient, selon moi, être contestés. ¶ En premier lieu, vous savez, Monsieur le Baron, que les autres puissances catholiques qui nous ont reconnus ont parfaitement senti qu'au point de vue des intérêts religieux, elles n'avaient aucune explication à nous demander sur notre attitude envers le Saint-Siége, les faits ayant assez prouvé que ces intérêts ne sont en aucune façon compromis par la reconstitution de l'unité de l'Italie. ¶ En deuxième lieu, j'observerai que la question d'occupation territoriale réglée entre l'Italie et la France par la Convention du 15 septembre les intéressait l'une et l'autre exclusivement, et que cette même Convention a été conclue entre les deux parties contractantes en dehors de toute ingérence de la part d'autres puissances. ¶ Cela étant, dans le cas où le Gouvernement Espagnol croirait à propos d'invoquer comme motif déterminant de sa résolution actuelle la Convention du 15 septembre, il devrait être naturellement entendu que la mention de cet acte international dans les communications officielles de l'Espagne ne pourrait en aucune façon porter atteinte au principe d'après lequel la Convention du 15 septembre, comme la situation politique qu'elle a eu pour objet de régler, ne concernent que l'Italie et la France. ¶ Quant à l'opinion que vous a exprimée S. E. M. Bermudez de Castro sur l'opportunité de mettre de nouveau en question l'interprétation de la Convention du 15 septembre, je ne saurais, je l'avoue, la partager. Les deux puissances contractantes, auxquelles il appartenait de s'en occuper, ont fixé entre elles cette interprétation régulièrement et en voie diplomatique, ainsi qu'il résulte du télégramme adressé le 1 novembre 1864 au Gouvernement du Roi par le Ministre d'Italie à Paris, accepté dans ma dépêche à ce Ministre en date du 7 novembre. Les autres puissances ont pu puiser dans les pièces relatives à cet objet, qui ont été publiées et qui ont un caractère international, tous les renseignements qu'elles ont pu désirer pour leur information particulière, mais je ne croirais pas régulier de prendre acte des constatations qu'il leur conviendrait, pour des raisons quelconques, de faire à ce sujet. ¶ Le Ministre des Affaires Étrangères d'Espagne vous a encore entretenu des biens dont les familles des princes déchus pourraient avoir à réclamer la restitution de la part du Gouvernement Italien. Vous voudrez bien assurer M. Bermudez de Castro qu'en principe le Gouvernement du Roi n'a jamais entendu retenir celles de ces propriétés qui seraient reconnues comme ayant un caractère privé; il ne s'agirait donc que de déterminer régulièrement si les biens en question ont ce caractère. C'est là une difficulté à l'égard de laquelle il sera beaucoup plus facile d'arriver à une solution, comme vous l'avez fort bien

No. 2197. Italien, 5. Juli 1865. remarqué, quand les rapports réguliers entre les deux États seront rétablis. ¶ J'espère, Monsieur le Baron, que le Gouvernement Espagnol verra dans ces franches explications la preuve de notre désir de répondre d'une manière aussi satisfaisante que possible aux ouvertures qui nous sont faites. ¶ Vous êtes autorisé à donner lecture de cette dépêche à S. E. M. Bermudez de Castro, et à lui en laisser copie s'il le désire. ¶ Agréez, etc.

La Marmora.

No. 2198.

ITALIEN. — Geschäftstr. in Madrid an den Kön. Min. d. Ausw. — Ankündigung einer Antwort des Span. Min. d. Ausw. auf die vorstehende Ital. Depesche vom 5. Juli 1865. —

Madrid, den 16. Juli. (Erhalten den 21.)

No. 2198. Italien, 16. Juli 1865. Herr Minister! Nachdem der Herr Staatsminister die Abschrift der Depesche Ew. Exc. vom 5. d. M., die ich ihm einhändigte, aufmerksam gelesen und sich mit dem Ministerpräsidenten berathen hatte, erklärte er sich mit den darin enthaltenen Auseinandersetzungen zufriedengestellt. Da er mir den Wunsch äusserte, mich wiederzusehen, begab ich mich gestern ins Staatsministerium, und hier erfuhr ich, dass an demselben Tage ein Courier nach Florenz abgereist sei, um die an Herrn Zarco de Valle gerichtete Depesche als Antwort auf die Ew. Exc. vom 5. d. M. zu überbringen. ¶ Herr Bermudez theilte mir den Inhalt derselben mit dem Bemerken mit, dass er sich darauf beschränkt habe, in der Convention vom 15. September einen Beweis des Vertrauens für Spanien zu finden, welchem die Interessen des Papstthums am Herzen lägen. ¶ Ausserdem nahm er, wie er mir sagte, Act von dem Inhalte der Depesche Ew. Exc. in Betreff der Privatbesitzungen der entthronten Fürsten, nicht sowohl der der Oesterreichischen Dynastie, als der Neapels und Parmas, welche mit den Bourbonen Spaniens durch nahe Verwandtschaft eng verbunden seien. Genehmigen Sie, etc.

Cavalchini.

No. 2199.

SPANIEN. — Min. d. Ausw. an den Kön. Geschäftstr. in Florenz (von diesem in Copie dem Ital. Min. d. Ausw. mitgetheilt). — Antwort auf die Ital. Depesche vom 5. Juli 1865 (No. 2197). —

No. 2199. Spanien, 12. Juli 1865. Der Baron Cavalchini kam gestern zu mir und gab mir eine Depesche Sr. Exc. des Generals La Marmora, Präsidenten des Ministerrathes und Minister des Auswärtigen Sr. Maj. des Königs Victor Emanuel, zu lesen und hinterliess eine Abschrift derselben. Sie enthielt die Antwort auf die Mittheilung, durch welche der diplomatische Agent ihn von dem Entschluss der Regierung Sr. Maj., das neue Königreich Italien anzuerkennen, in Kenntniss setzte und ihm über die Conferenz Bericht erstattete, welche er mit mir über diese Angelegenheit gehabt

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hatte. ¶ Die Art und Weise, auf welche das Cabinet zu Florenz dieser günstigen Disposition Spaniens entspricht, indem es ihm versichert, dass der König und ganz Italien die Gesinnungen des Cabinets theilen, ist für die Regierung der Königin um so erfreulicher, als sie ihm eine neue Garantie bietet, dass nach Wiederherstellung der regelmässigen Beziehungen zwischen beiden Nationen, unsere Vorschläge und Vorbehalte eine freundschaftliche Würdigung und ein volles Verständniss finden werden. ¶ Indem ich, wie S. Exc. der General La Marmora, denke, dass die Anerkennung eines Staates durch einen andern keine andere Bedeutung hat und keine andere Folge impliciren kann als die Wiederherstellung regelmässiger diplomatischer Beziehungen zwischen beiden Regierungen, ohne weder für die Zukunft, noch für die Vergangenheit die unabhängige Politik eines Jeden zu binden, scheint es mir für unsere Loyalität und für die Garantie eines guten Einverständnisses mit Italien von Wichtigkeit zu sein, dass man weder im In- noch im Auslande unsere Handlungsweise in irriger Weise auslege. ¶ Indem die Regierung der Königin in den verschiedenen Krisen Italiens vollständig neutral blieb, hat sie demungeachtet mit ihrer Ansicht über die Ereignisse, welche in den letztverflossenen Jahren auf dieser Halbinsel stattgefunden haben, nicht zurückgehalten, und deshalb kann die Anerkennung des jetzigen Zustandes, welcher daraus hervorgegangen ist, in keiner Weise die Billigung einer früheren Politik impliciren, welcher wir vollständig fremd blieben und über die wir uns stets die volle Freiheit des Urtheils vorbehielten. Noch viel weniger beabsichtigen wir, durch diesen Act den Rechten Anderer oder den darüber herrschenden Streitfragen zu präjudiciren. ¶ Ohne dass wir die öffentlichen und zu wiederholten Malen kundgegebnen Absichten der Italienischen Regierung, die geistliche und weltliche Autorität des heiligen Stuhles zu respectiren in Zweifel ziehen, wird das Cabinet zu Florenz die uns durch unsere Stellung als exclusiv katholische Macht auferlegten Pflichten begreifen, und deshalb scheint es mir fast unnöthig hinzuzufügen, dass wir, indem wir unsere officiellen Beziehungen mit der Regierung des Königs Victor Emanuel wieder anknüpfen und seine neue vergrösserte Monarchie anerkennen, keineswegs den Werth der von der römischen Curie formulirten Proteste zu schmälern beabsichtigen. ¶ Die Regierung der Königin hofft, dass diese so vollständigen und loyalen Erklärungen von ihrer Seite, die Bemühung, mit der sie sich angelegen sein lässt, nicht den geringsten Zweifel über die Gesinnungen, von denen sie beseelt ist, zu lassen, und die Freimüthigkeit, mit welcher sie ihre innersten Gedanken offenbart, für das Florentiner Cabinet ein deutlicher Beweis der Aufrichtigkeit ihres Entgegenkommens sein werden. Der Act der Anerkennung selbst wird ihm beweisen, welchen Antheil sie am Schicksal Italiens nimmt, und wie es ihr herzlichster Wunsch ist, die guten und freundschaftlichen Beziehungen zwischen beiden Halbinseln wiederherzustellen. ¶ Durch einen Irrthum des Baron Cavalchini verleitet, der von Seiten dessen leicht erklärlich ist, der über alle Vorfälle einer weitläufigen und wichtigen Conferenz Bericht erstattet, ist S. Exc. der General La Marmora der Meinung, dass die Regierung der Königin beabsichtige, ihren Entschluss, zur Anerkennung des Königreichs Italien zu schreiten, auf die Thatsache der Convention vom 15. September zu basiren. Das war nicht unser

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Wille. ¶ Mir schien es, wie ich auch dem Baron Cavalchini sagte, dass diese Convention ein deutlicher Beweis von der Geneigtheit der Regierung Sr. Maj. des Königs Victor Emanuel, den Agitationen Italiens ein Ziel zu setzen, und eine öffentliche Garantie für Europa sei. Und wenn ein so wichtiger Act nicht umhin konnte, die öffentliche Meinung in Spanien zu beeinflussen, wie sie ohne Zweifel die Entschliessungen der Regierung beeinflusst hat, so haben wir darum doch nicht verkannt, dass seine Ausführung und Auslegung ausschliesslich den beiden vertragschliessenden Mächten zukommen. ¶ Doch da es sich um eine Angelegenheit handelt, welche alle katholischen Nationen direct berührt, so ist Spanien vom Anfang an und mit dem gespanntesten Interesse nicht allein diesen Verhandlungen, sondern auch den öffentlichen und officiellen Auslegungen derselben gefolgt. Und die Regierung der Königin, welche dieser Convention völlig fremd blieb und deshalb keinen Beruf hat, sie ausführen zu lassen oder zu interpretiren, hat sie aus dem Gesichtspunkte betrachtet, welcher ihrer Stellung gebührte, indem sie sich darauf beschränkte, auf Grund der diplomatischen Auseinandersetzungen, welche zwischen den Cabinetten von Turin und Paris stattfanden, und der Erörterungen, welche das Staatsministerium des Kaisers der Franzosen am 15. April dieses J. im gesetzgebenden Körper abgab, sich ihre eignen Ansichten zu bilden und ihre eigne Meinung festzustellen. ¶ Die Erklärungen, welche der Italienische Minister des Auswärtigen die Gefälligkeit hat über die Absichten seiner Regierung hinsichtlich der Besitzungen zu geben, welche den Fürsten von Neapel und Parma aus dem Hause Bourbon gehören, für die wir eine erklärliche Theilnahme fühlen, lassen die Regierung der Königin eine baldige und befriedigende Lösung hoffen. Mit Vergnügen nehme ich diese Erklärung entgegen und hege das Vertrauen, dass beide Cabinette, von demselben Geiste der Mässigung und Gerechtigkeit beseelt, sobald die regelmässigen Beziehungen zwischen beiden Staaten wiederhergestellt sind, zu einem Einverständniss gelangen werden. ¶ Indem Ew. Hochedeln Sr. Exc. dem General La Marmora diese Depesche zu lesen geben und ihm eine Abschrift überlassen, sind Sie autorisirt ihm zu versichern, dass nach Erfüllung der unerlässlichen Pflicht, vorstehende Erklärungen abzugeben, deren Charakter und Zweck, wie ich überzeugt bin, er zu würdigen wissen wird, die Italienische Regierung in der Spanischen die grösste Bereitwilligkeit finden wird, die Beziehungen zwischen beiden Staaten zu befestigen und so freundschaftlich zu gestalten, wie es ihren herkömmlichen Banden der Freundschaft und der Aehnlichkeit ihrer Institutionen angemessen ist. ¶ Auf Königl. Befehl mache ich Ew. Hochedeln diese Mittheilungen, damit Sie Sich danach richten können. ¶ Gott erhalte Sie noch lange Jahre.

Madrid, 12. Juli 1865.

M. Bermudez de Castro.

No. 2200.

ITALIEN. — Min. d. Ausw. an den Kön. Geschäftstr. in Madrid. — Befriedigung über den bisherigen Gang d. Anerkennungs-Unterhandlungen. —

Florence, 23 juillet 1865.

No. 2200. Italien, 23. Juli 1865.

Monsieur le Baron, j'ai pris connaissance avec intérêt de vos rapports du 12 juillet et du 16, ainsi que de vos dépêches télégraphiques du 11 et du 15. J'approuve entièrement le langage que vous avez tenu à Son Excellence M. Bermudez de Castro, et je vois avec plaisir que nos déclarations ont été comprises et appréciées. ¶ En effet, S. E. le Ministre des Affaires Étrangères de la Reine a adressé le 12 de ce mois à M. Zarco del Valle, Chargé d'affaires d'Espagne à Florence, une dépêche dont ce représentant m'a laissé copie, et qui répond d'une manière satisfaisante aux observations que, d'après les entretiens que vous aviez eus avec M. Bermudez de Castro, j'avais cru opportun de faire dans ma dépêche du 5 juillet. ¶ Dans celle qu'il adresse à M. Zarco del Valle, M. Bermudez de Castro nous donne l'assurance des sentiments amicaux sous les auspices desquels l'Espagne rétablit avec nous ses relations, et s'associe à nos vues sur la portée de l'acte de la reconnaissance. ¶ Le Ministre des Affaires Étrangères de la Reine allègue la conclusion de la Convention du 15 septembre comme un des faits qui ont influé sur les résolutions actuelles de l'Espagne; mais admettant la justesse des remarques que nous avait suggérées l'éventualité où il se fonderait sur cette considération dans ses communications officielles, il déclare ne pas méconnaître que l'accomplissement et l'interprétation de la Convention du 15 septembre concernent exclusivement les deux puissances contractantes. Je ne crois dès lors pas nécessaire de revenir sur ce sujet. ¶ Veuillez donc, Monsieur le Baron, assurer M. Bermudez de Castro de la parfaite réciprocité de sentiments avec laquelle le Gouvernement du Roi répond à ceux que S. E. nous témoigne pour l'Italie, et lui exprimer la confiance où nous sommes que le rétablissement de rapports réguliers entre les deux pays sera également avantageux à l'un et à l'autre. ¶ Je me réserve de vous annoncer très-prochainement par le télégraphe le choix du personnage qui sera chargé de l'honorable mission de notifier officiellement à S. M. la Reine le titre de Roi d'Italie pris par notre auguste Souverain et de représenter l'Italie auprès du Gouvernement Espagnol. ¶ Agréez, etc.

La Marmora.

No. 2201.

ITALIEN. — Ges. in Madrid an den Kön. Min. d. Ausw. — Anzeige von seiner (des Gesandten) Ankunft in Madrid und erstem Besuche beim Königl. Span. Min. d. Ausw. —

Madrid, 6. August 1865. (Erhalten den 11.)

No. 2201. Italien, 6. Aug. 1865.

Herr Minister! In Gemässheit der mir von Ew. Exc. durch Telegramm vom 28. Juli d. J. ertheilten Ordre verliess ich Lissabon den 31. und

No. 2201. Italien, 6. Aug. 1865.

langte den 3. d. M. hier an. ¶ Noch an demselben Tage meiner Ankunft begab ich mich mit dem Baron Cavalchini zum Staatsminister, Herrn Bermudez de Castro, bei welchem ich die zuvorkommendste Aufnahme fand und der mir wiederholt versicherte, es sei der aufrichtige und lebhafteste Wunsch der Spanischen Regierung, die intimsten Beziehungen mit Sr. Maj. Regierung von Neuem anzuknüpfen. Genehmigen Sie, etc. *Taliacarne.*

No. 2202.

ITALIEN. — Ges. in Madrid an den Kön. Min. d. Ausw. — Einen Depeschenwechsel zwischen Oesterreich und Spanien über die bevorstehende Anerkennung des Königr. Italien durch Letzteres betr. —

Madrid, 7. August 1865. (Erhalten den 12.)

No. 2202. Italien, 7. Aug. 1865.

Herr Minister! Ich brachte in Erfahrung, dass der Oesterreichische Geschäftsträger dieser Tage den Auftrag erhielt, Herrn Bermudez de Castro eine Depesche seiner Regierung über die beschlossene Anerkennung des Königreichs Italien von Seiten Spaniens vorzulesen und ihm eine Abschrift derselben zu lassen. — Um das Madrider Cabinet von seinem Vorhaben abzubringen, wies Graf von Mensdorff auf die Conformität der von Spanien und Oesterreich in den Angelegenheiten der Italienischen Halbinsel in diesen letzten Jahren befolgten Politik, auf die Gemeinsamkeit der Interessen hin, welche sie beide als katholische Mächte dort haben, und man sagte mir, er deute selbst die Gefahren an, welchen nach dem Wiener Cabinet Spanien durch die Anerkennung der in letzter Zeit in Italien vollendeten Thatsachen entgegengehen würde. ¶ Ich erfuhr ferner, dass Herr Bermudez de Castro diese Mittheilung mit einer Depesche erwidert habe, welche er seinerseits den 3. d. M. an den Spanischen Geschäftsträger in Wien, Herrn Della Torre d'Ayllon richtete. Herr Bermudez beginnt damit, dass er sagt, er sehe keinen Grund, weshalb die Thatsache, dass Oesterreich und Spanien im gegenseitigen Interesse in den letzten Jahren eine gleiche Stellung in Bezug auf Italien eingenommen hätten, der Spanischen Regierung die Verpflichtung auferlege, niemals von der Politik abzuweichen, welche bezüglich der Angelegenheiten der Halbinsel zu befolgen Oesterreich beliebe. — Man könne nur dann sagen, dass eine solche Verpflichtung bestehe, wenn zwischen Oesterreich und Spanien ausdrückliche Verträge abgeschlossen wären, was nicht der Fall sei. — Hinsichtlich der Interessen, welche Spanien in seiner Eigenschaft als katholische Macht verfolgt, bemerkt Herr Bermudez de Castro sehr richtig, dass Spanien die lebhaftesten Sympathien für den Papst hege, aber dass diese Sympathien ausschliesslich dem heiligen Vater zu Statten kämen und frei von jeder politischen Tendenz seien, während Oesterreich noch andere dem in Italien herrschenden Geiste diametral entgegengesetzte Interessen habe, was die vermeintliche Identität der von Graf von Mensdorff angedeuteten Ansichten ausschliesse. ¶ Was die Anerkennung der in Italien vollendeten Thatsachen anlange, citirt Herr Bermudez de Castro Beispiele ähnlicher Fälle und unter andern den Oesterreichs, welches in den Jahren 1830 und 1848 mit Spanien die

Veränderungen der Staatsgewalt in Frankreich anerkannte. Dann erklärt er, dass er nicht einsehen könne, welchen Gefahren Spanien durch diese Anerkennung ausgesetzt sei, mit welcher es nur seine Hinneigung zu den liberalen Institutionen beweise, welche im Jahre 1848 die Spanische Monarchie vor den Aufständen bewahrte, von welchen viele andere unter den alten Monarchien Europas heimgesucht wurden, Institutionen, welche Oesterreich selbst vor Kurzem eingeführt habe und noch gegenwärtig aufrecht erhalte. ¶ Dies ist der Inhalt des Briefwechsels, welchen die Anerkennung des Königreichs Italien von Seiten Spaniens zwischen diesem und Oesterreich veranlasste. Er ist besonders deshalb wichtig, weil Spanien unter anderm erklärt, dass es in den römischen Angelegenheiten keinerlei politische Tendenzen verfolge und nur seine Sympathien für die geistlichen Interessen der Kirche und den heiligen Vater wahren wolle. ¶ Genehmigen Sie, etc. *Taliacarne.*

No. 2202. Italien, 7. Aug. 1865.

No. 2203.

ITALIEN. — Ges. in Madrid an den Kön. Min. d. Ausw. — Bericht über die Antritts-Audienz bei der Königin von Spanien. —

San Sebastiano, 8. September 1865. (Erhalten den 14.)

No. 2203. Italien, 8. Sept. 1865.

Herr Minister! S. Exc. der Staatsminister machte mir vorgestern die officielle Anzeige, dass Ihre Maj. die Königin mich den 7. zu San Sebastiano in feierlicher Audienz empfangen würde. ¶ Ich reiste sofort mit sämmtlichem Personal der Königl. Gesandtschaft von Madrid ab und langte gestern hier an. $^1/_2$3 Uhr wurde ich, wie ich bereits die Ehre hatte Ihnen durch den Telegraphen zu melden, der Königin und ihrem Hofe in feierlicher Audienz vorgestellt. Ich überreichte Ihrer Maj. zuerst das Schreiben, in welchem S. M. der König unser erhabner Fürst Ihrer Kath. Maj. anzeigt, dass Er für sich und Seine Nachfolger den Titel König von Italien angenommen habe, dann dasjenige, welches mich bei Ihrer Maj. der Königin als ausserordentlichen Königl. Gesandten und bevollmächtigten Minister beglaubigt. ¶ Bei dieser Gelegenheit richtete ich an Ihre Maj. die Königin einige Worte, welche Sie in den für S. M. den König unsern hohen Herrn, dessen Regierung und dessen Repräsentanten schmeichelhaftesten Ausdrücken zu beantworten geruhte. ¶ Ich schätze mich glücklich, Ew. Exc. eine Abschrift sowohl meiner Rede wie der der Königin zu übersenden. ¶ Genehmigen Sie, etc. *Taliacarne.*

No. 2204.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Madrid. — Bericht über die Antritts-Audienz des Kön. Span. Ges. beim Könige Victor Emanuel. —

Florenz, 18. September 1865.

No. 2204. Italien, 18. Sept. 1865.

Herr Minister! Diesen Morgen um 11 Uhr wurde S. Exc. Ritter August Ulloa, vorgestellt vom Palastpräfect, dem Oberceremonienmeister Sr. M., in feierlicher Audienz vom König unserm hohen Herrn in seiner Königl. Residenz Palazzo Pitti empfangen. ¶ Ritter Ulloa händigte zuerst Sr. Maj. die Antwort

No. 2204. Italien, 18. Sept. 1865.

seiner hohen Fürstin ein auf das Schreiben, welches Ew. Hochwohlgeboren Selbiger überreicht hatten und worin S. M. der König ihr anzeigte, dass er für Sich und seine Nachfolger den Titel König von Italien angenommen habe, — sodann die hohen Schreiben, welche ihn als ausserordentlichen Gesandten und bevollmächtigten Minister Ihrer M. der Königin beim Italienischen Hofe beglaubigen. ¶ Ich schätze mich glücklich, Ihnen in Abschrift beiliegend die Reden übersenden zu können, welche bei dieser Gelegenheit von Ritter Ulloa und von Sr. M. dem König gehalten wurden. So wurden unter glücklichen Auspicien die neuen Beziehungen Italiens zu Spanien eröffnet, welche in so freundschaftlicher Weise zu erhalten, wie sicherlich beide Völker es wünschen, die angelegentlichste Sorge der Königl. Regierung sein wird. ¶ Genehmigen Sie, etc.

La Marmora.

No. 2205.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Madrid. — Bemerkungen über gewisse Schritte Spaniens zu Gunsten der Erhaltung der weltlichen Macht des Papstes, als im Widerspruch stehend mit den Bedingungen der Anerkennung des Königr. Italien.*) —

Florence, 5 février 1866.

No. 2205. Italien, 5. Febr. 1866.

Monsieur le ministre, lorsque le gouvernement Espagnol voulut bien renouer des relations régulières avec l'Italie, la franchise des explications qui venaient d'être échangées entre les deux cabinets m'avait donné lieu de croire que le gouvernement de S. M. la reine et le gouvernement du roi s'étaient compris, et d'espérer qu'ils n'auraient pas à rouvrir de discussions sur un objet dont nous avions pris un si grand soin d'écarter toute équivoque. Les bonnes relations de l'Italie et de l'Espagne ont toujours eu à nos yeux le plus grand prix, et j'ai eu récemment l'occasion d'exprimer au sénat du royaume le regret qu'elles eussent été interrompues. Pendant toute la période où elles cessèrent, l'Italie s'abstint de créer aucun embarras au gouvernement de la reine, et d'encourager aucun acte hostile, soit contre son administration intérieure, soit contre son action au dehors. Par une suite naturelle de ces bonnes dispositions de notre part, la résolution spontanée, annoncée par le cabinet de Madrid, de se rapprocher de l'Italie fut accueillie par nous comme un événement heureux pour l'avenir des deux pays. Cependant je crus indispensable que ce rapprochement eût lieu des deux côtés avec pleine connaissance de cause, et comme la mention, faite par S. Exc. le ministre d'État, de la convention du 15 septembre 1864, m'offrait l'occasion de prévenir dès lors tout malentendu sur la seule question qui semblait pouvoir nous diviser, la question Romaine, je m'en expliquai catégoriquement avec le gouvernement de Sa Majesté Catholique. ¶ Je déclarai, sans détour, dans une dépêche dont le baron Cavalchini eut l'honneur de laisser copie au ministre d'État de la reine**), que le gouvernement du roi ne reconnait pas aux

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*) No. 2205 und 2206 sind in der officiellen Sammlung nicht enthalten.

**) No. 2197.

No. 2205. Italien, 5. Febr. 1866.

puissances catholiques le droit de lui demander des explications au nom d'intérêts religieux qui ne sont point en cause. J'ajoutai que la situation politique, réglée entre l'Italie et la France par la convention du 15 septembre 1864, ainsi que les questions auxquelles peuvent donner lieu l'interprétation et l'exécution de cet acte, ne concernent aucune autre puissance que l'Italie et la France. ¶ Par une dépêche du 12 juillet*) adressée au chargé d'affaires d'Espagne à Florence, S. Exc. M. Bermudez de Castro nous fit notifier que le gouvernement de S. M. la reine acceptait ces déclarations et en était satisfait, ce que S. Exc. le maréchal O'Donnell voulut bien confirmer expressément au chargé d'affaires d'Italie. ¶ Ce fut après cet éclaircissement que des rapports réguliers furent définitivement rétablis entre le gouvernement Espagnol et le gouvernement du roi. ¶ Nous étions donc fondés à croire que le gouvernement Espagnol s'abstiendrait de toute immixtion dans des questions politiques et territoriales qu'il avait reconnu lui être étrangères. C'est avec surprise que je constate aujourd'hui, en lisant les documents diplomatiques que le gouvernement de Madrid vient lui-même de publier, qu'il a jugé pouvoir faire relativement aux affaires de Rome, des démarches qui ne me semblent pas d'accord avec les déclarations que je suis amené à rappeler. A ce que me paraît établir le dernier recueil présenté aux chambres espagnoles, le gouvernement de S. M. la reine a demandé que le gouvernement Français lui donnât la garantie que le pouvoir temporel de la cour de Rome serait dans tous les cas assuré, même contre les conséquences de ses propres actes et sans tenir compte de la volonté des populations; le gouvernement et les agents de S. M. la reine affirment que toutes les puissances ont comme telles le droit et le devoir de prendre des mesures et d'agir à l'égard des changements politiques qui pourraient se produire sur le territoire romain après le départ des troupes françaises, l'ambassadeur de la reine à Paris ayant cru que la France pourrait admettre l'intervention des autres puissances dans la question romaine, et se mettre d'accord avec l'Espagne pour sauvegarder l'autorité temporelle du saint siége. ¶ S. Exc. M. Bermudez de Castro l'engage à prendre part, autant que possible, aux résolutions qui pourraient être prises dans ce dessein; enfin, le gouvernement Espagnol croit pouvoir interpréter des paroles prononcées dans le sein du Corps législatif de France, comme constituant de la part du Gouvernement impérial un engagement contracté envers les puissances catholiques, et pour celles-ci un titre acquis en vertu desquels la question romaine, dans certaines éventualités non prévues par la convention et malgré l'accomplissement intégral de celle-ci de la part de l'Italie, deviendrait une question européenne et rentrerait dans la compétence de toute la catholicité. Je laisse à S. Exc. M. Bermudez de Castro le soin d'indiquer si, comme je crois devoir le supposer, il juge à propos de le faire, par quel lien cette conduite du gouvernement Espagnol peut se rattacher aux déclarations qui ont accompagné la reprise des rapports diplomatiques entre les deux États. Je persiste d'ailleurs à juger inopportun, pour mon compte, d'anticiper sur les éventualités qui ont été l'objet, entre LL. EExc. l'ambassadeur d'Espagne à Paris et M. Drouyn de Lhuys, d'entretiens

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restés sans résultat, et où nous n'avions pas à intervenir. ¶ Je ne puis cependant me dispenser de me prononcer en principe sur les démarches du gouvernement de S. M. la reine, qui viennent d'acquérir une notoriété officielle, car elles s'inspirent d'une doctrine qui est la négation même de notre droit public, celle d'après laquelle le territoire et la population de Rome seraient frappés d'une espèce de mainmorte au profit de la catholicité, et elles tendent à préjuger une épreuve dont le résultat doit dépendre des populations romaines. ¶ Je dois donc vous charger, monsieur le ministre, de rappeler de nouveau à S. Exc. M. Bermudez de Castro, au nom du gouvernement du roi, que si la convention du 15 septembre 1864, en rendant hommage au principe de non-intervention, a soumis cependant à des conditions déterminées l'application de ce principe au territoire romain, ces conditions concernent exclusivement la France et nous; vous déclarerez que, par conséquent, pour les autres puissances, leur non-intervention dans les affaires politiques de Rome demeure le principe pur et simple sur lequel se règle invariablement la conduite de l'Italie. ¶ Je me suis borné, dans les déclarations qui précèdent, à apprécier l'attitude de l'Espagne au point de vue des droits respectifs des deux nations. J'aurais à y ajouter des observations sur le caractère peu bienveillant du langage et des actes du cabinet de Madrid envers l'Italie, si je ne tenais à réserver dans toute son étendue l'indépendance réciproque que les deux gouvernements ont voulu maintenir intacte en rétablissant leurs rapports. Sans renoncer, bien entendu, à manifester ses appréciations particulières sur la convention du 15 septembre, appréciation dont nous n'avons pas à prendre acte, et à témoigner sa sollicitude pour le père des fidèles et pour les intérêts religieux qui ne nous sont pas moins chers qu'à lui, le cabinet de Madrid aurait pu, à notre exemple, faire dans ses démonstrations une part plus large aux sympathies que comportent la communauté d'origine et la similitude d'institution des deux peuples. Je ne veux pourtant pas appuyer sur les sentiments d'amitié que le cabinet de Madrid a bien voulu nous témoigner en d'autres occasions. ¶ Je ne prétends non plus rien ôter à la liberté de ses considérations sur la question Romaine. Je pourrais à cet égard observer que, si le cabinet de Madrid peut apprécier comme il lui plaît, l'influence que la politique de la cour de Rome a exercée sur les destinées de l'Espagne, nous sommes certes les meilleurs juges des événements de notre propre histoire, où depuis des siècles les catholiques italiens ont appris à déplorer les maux que la confusion des pouvoirs temporel et spirituel a causés, en Italie, aux intérêts de la patrie et au prestige de la religion. Mais je ne veux pas suivre S. Exc. M. Bermudez de Castro sur un terrain où je regrette qu'il se soit lui-même placé. ¶ Seulement, je ne puis passer sous silence une dépêche adressée le 8 novembre dernier à l'ambassadeur d'Espagne à Rome, et où S. Exc. M. Bermudez de Castro énonce l'espoir que des provinces qui font actuellement partie du royaume d'Italie, pourront, dans la suite, en être détachées. ¶ Une telle manifestation, monsieur le ministre, doit être formellement relevée par vous auprès de S. Exc. M. le ministre d'État de la reine. L'Italie avait le droit, peut-être, de s'attendre à plus d'égards, et S. Exc. M. Bermudez de Castro nous permettra de lui dire: accueillir, comme il a cru pouvoir le faire, de pareilles prévisions, c'est peu connaître les fondements

inébranlables sur lesquels repose notre unité nationale, et l'irrévocable résolution où nous sommes de la faire respecter. ¶ Vous êtes chargé, monsieur le ministre, de donner lecture de cette dépêche à S. Exc. M. Bermudez de Castro, et vous lui en laisserez copie s'il le désire. ¶ Agréez, etc. *La Marmora.*

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SPANIEN. — Min. d. Ausw. an den Kön. Ges. in Florenz. — Widerlegung der in der vorstehenden Ital. Depesche der Span. Regierung gemachten Vorwürfe. —

Madrid, le 16 février 1866.

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Excellence, le marquis de Tagliacane est venu, le 11 de ce mois, me donner lecture d'une dépêche que S. Exc. le général La Marmora lui avait adressée sous la date du 5, et qui, avant d'arriver à ma connaissance, avait été publiée dans le numéro du 9 de la *Gazette officielle* de Florence. ¶ Le 12, un jour après la lecture, j'ai reçu presque en même temps la copie que le représentant de l'Italie a bien voulu m'envoyer, et la nouvelle télégraphique que les journaux français reproduisaient, dans leurs colonnes, cette même communication. Cette publicité anticipée qui en vérité n'est guère d'accord avec les usages diplomatiques généralement suivis, et qui me dispense de transmettre à Votre Excellence le document dont il est question, donne à cette pièce un caractère distinct et plus significatif que celui que revêtent ordinairement les communications entre deux gouvernements amis, et elle me met dans le cas de publier, à mon tour, la présente dépêche, afin de suivre complétement dans ma réponse la forme dans laquelle le ministre des affaires étrangères m'a adressé les observations que je vais examiner. Mais avant d'y répondre, il conviènt au but que je me propose d'atteindre, de rappeler quelques antécédents. ¶ Lorsque le gouvernement de la reine, animé du désir de renouer ses anciens rapports d'amitié avec le royaume d'Italie, fit spontanément la première indication de ses intentions au baron Cavalchini, alors chargé d'affaires de S. M. le roi Victor-Emmanuel, il mit un soin particulier à fixer préalablement, d'une manière claire et décisive, la signification et la véritable importance de l'acte qu'il se proposait d'effectuer. ¶ En présence de ces intentions, le général La Marmora, mû par un désir identique, s'empressa de déclarer de son côté, avec une égale spontanéité, dans sa dépêche du 5 juillet de l'année dernière*), qu'à son avis le fait de la part d'un État d'en reconnaître un autre n'avait, par lui-même, ni plus ni moins de portée que le rétablissement pur et simple des relations diplomatiques dans la forme voulue, sans que cela pût, en aucune manière, lier la politique de l'un de ces deux États à la politique de l'autre. ¶ A cette définition si exempte d'équivoque de ce que signifiait la reconnaissance dans l'opinion de Son Excellence, répondirent les explications non moins franches données par moi dans une dépêche adressée le 12 du même mois**) au chargé d'affaires d'Espagne à

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**) No. 2199.

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Florence, et dont M. Zarco del Valle donna communication, lecture et copie au ministre des affaires étrangères du roi d'Italie. Dans cette dépêche, commençant par tomber d'accord avec le gouvernement Italien que la reconnaissance ne pouvait ni relativement au passé, ni pour l'avenir, lier la politique indépendante d'aucune des deux nations, j'ajoutais, que l'Espagne n'avait point caché son jugement sur les événements arrivés dans la Péninsule italienne pendant les dernières années, et que, par conséquent, la reconnaissance n'impliquait pas plus l'approbation rétrospective de la politique suivie par le gouvernement de S. M. le roi Victor-Emmanuel, et à l'égard de laquelle elle s'était toujours réservé la plus complète liberté de jugement, qu'elle ne croyait léser les droits étrangers, ni même préjuger les questions qui pourraient en découler. ¶ Lorsque le général La Marmora exprimait sa manière de comprendre et d'interpréter l'acte de la reconnaissance, et lorsque j'acceptais ses explications dans la forme que je viens d'exposer, nous donnions tous deux une telle preuve de sincérité et de si entière franchise qu'il nous semblait qu'on ne pourrait jamais élever de doutes sur ce point. Au moyen des déclarations antérieures, l'Espagne restait donc en pleine liberté de suivre, même une fois l'Italie reconnue, la politique qu'elle jugerait la plus convenable à ses intérêts. ¶ Dans un tel état de choses, je n'ai donc pu être que surpris de ce que le général La Marmora se croie aujourd'hui dans le cas de se montrer fâché, et de ce qu'il se plaigne des démarches que l'Espagne a pu faire ou qu'elle ait l'intention de faire relativement à la question Romaine, surtout lorsque cette question était si bien prévue, et que le gouvernement de la reine s'était exprimé sur elle d'une manière si explicite, et qui ne laissait point de place à la plus légère erreur. ¶ „Sans mettre en doute, disais-je dans la dépêche du 12 juillet déjà citée, les intentions publiquement et fréquemment manifestées par le gouvernement Italien, de respecter l'autorité spirituelle et le territoire du saint-siége, le cabinet de Florence comprendra les devoirs que nous impose notre position de puissance exclusivement catholique. Et dans ce cas, il me semble presque inutile d'ajouter que, en renouant nos rapports officiels avec le gouvernement du roi Victor-Emmanuel, et en reconnaissant sa monarchie nouvelle et agrandie, nous n'entendons en aucune façon affaiblir la valeur des protestations formulées par la cour de Rome.“ ¶ Il ne saurait y avoir rien de plus explicite: si nous reconnaissions le fait de l'annexion au nouveau royaume d'Italie de diverses provinces qui avant appartenaient aux États pontificaux; si malgré cela nous ne voulions pas affaiblir la valeur des protestations du saint-père, et si ces protestations que nous respections de cette manière, se rapportaient à des événements passés, il est évident que sous peine de tomber dans une grave et inconcevable inconséquence, les paroles que je viens de transcrire faisaient connaître d'avance notre opinion, contraire à toute politique qui aurait tendu à démembrer plus tard le territoire qui, alors comme aujourd'hui, constituait le patrimoine où le souverain pontife exerce sa souveraineté temporelle. ¶ En suivant donc constamment les principes qu'en cette occasion j'ai eu l'honneur d'exposer avec tant de clarté et de franchise à M. le ministre des affaires étrangères d'Italie, l'Espagne n'a fait rien de nouveau et n'a montré ni dans sa conduite ni dans ses idées aucune variation sur laquelle Son Excellence puisse

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se fonder pour dire que les démarches faites par le gouvernement Espagnol ne sont pas d'accord avec les déclarations qui ont précédé la reconnaissance, déclaration que je dois lui rappeler à mon tour en m'appuyant sur le texte de nos dépêches réciproques adressées aux agents diplomatiques de l'une et l'autre nation. ¶ De bonne foi et animés de la plus vive sympathie, nous avons reconnu le royaume d'Italie tel qu'il se trouve aujourd'hui constitué: par conséquent toute modification quelconque qui aurait lieu dans l'avenir amènerait un état de choses nouveau et distinct que ni l'Espagne ni l'Europe n'ont reconnu ni sanctionné d'avance, et qu'il serait donc loisible à toutes les autres nations de reconnaître ou non avec une liberté absolue. ¶ Mais la surprise du général La Marmora est plus inexplicable encore si on tient compte de ce qu'avant même la dépêche du 12 juillet, nous avions annoncé publiquement notre ferme intention d'agir en faveur du pouvoir temporel du pape. Dans ma réponse du 26 juin dernier à l'ambassadeur d'Espagne à Rome*), je disais que „pour être utile un jour aux intérêts permanents et sacrés du Pontificat, il était indispensable que l'Espagne renouât ses rapports politiques avec le royaume d'Italie; qu'elle entrât dans le concert européen, se préparant ainsi à faire entendre sa voix et à employer l'influence que les circonstances pourraient lui donner en faveur de l'indépendance et de la dignité du saint-siége.“ Cette dépêche a été imprimée dans les journaux italiens du 10 juillet et ne peut donc manquer d'être connue de M. le général La Marmora. ¶ Son Excellence appuie enfin ses arguments et ses observations sur ce qu'il y a d'explicite dans ses déclarations relatives à la Convention du 15 septembre et, puisqu'il en est ainsi, je crois de mon devoir de rappeler les faits qui les motivèrent. Partant d'une erreur commise par le baron Cavalchini, en rendant compte de la conférence qu'il eut avec moi sur ces affaires délicates, Son Excellence avait compris que le gouvernement Espagnol voulait fonder sa détermination de reconnaître l'Italie, sur le fait de la conclusion de ladite Convention et qu'en outre, il prétendait mettre en question la manière d'interpréter ce pacte solennel. D'après ce jugement erroné, il crut opportun de me rappeler que les deux États contractants avaient déjà fixé entre eux, en bonne et due forme et par la voie diplomatique, l'interprétation que l'on devait donner aux clauses de la Convention. ¶ Cette déclaration provoqua, de ma part, une réponse dans laquelle je convins que lesdites stipulations étant l'œuvre exclusive de l'Italie et de la France, elles avaient également, toutes deux, le droit exclusif à connaître de son interprétation et de son exécution; mais j'ajoutai aussi que, comme il s'agissait d'une affaire qui affectait si directement toutes les nations catholiques, l'Espagne avait suivi, dès le principe, et avec le plus vif intérêt, non-seulement les négociations, mais encore les commentaires publics et officiels dont cette Convention avait été l'objet de la part des deux Puissances signataires et que, en vertu de ces explications, et très-spécialement de celles données par M. Rouher au Corps législatif, dans la séance du 15 avril, le gouvernement de la reine avait formé son opinion définitive sur la question. ¶ Les explications auxquelles je me rapportais se trouvant dans les dépêches des

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28 et 30 octobre 1864, adressées par M. Drouyn de Lhuys au baron de Malaret, ministre de France à Florence, et dans le discours de M. Rouher, cité plus haut, et dans lequel il affirme que l'annexion de Rome à l'Italie était une question d'équilibre européen et entrait dans la juridiction de tout l'univers catholique. ¶ Les déclarations que ces documents renferment et qui fixent le sens de la convention, proviennent de l'une des deux puissances qui l'ont conclue et ont été faites avant le rétablissement de nos rapports avec l'Italie. Elles nous servirent de guide; avec elles et par elles nous formâmes notre jugement sur un pacte aussi important, et c'est pour cela qu'il importe que le général La Marmora remarque (et Votre Excellence devra appeler son attention sur ce point) que si les conséquences de ces déclarations et de ces doctrines ne sont pas conformes aux idées de Son Excellence; que s'il les tient pour la négation même du droit public italien, et qu'il croit que, si elles se réalisaient, le peuple et le territoire de Rome se verraient convertis en une espèce de biens de mainmorte au profit du catholicisme, ce n'est certes pas au gouvernement de la reine, quelque d'accord qu'il soit avec elles, qu'il doit adresser ses arguments pour les réfuter. ¶ Je crois que Son Excellence est tombée dans une erreur en assurant que le gouvernement Espagnol s'était reconnu comme complétement étranger à toutes les questions politiques et territoriales liées à la souveraineté pontificale, car s'il est certain qu'il s'est déclaré étranger à la conclusion de la convention du 15 septembre, il ne l'est point qu'il se soit montré indifférent à la question de Rome. Une preuve irréfutable de cela se trouve dans la dépêche du 12 juillet dont le texte affirme, et plus d'une fois, le vif et constant intérêt qu'inspire à l'Espagne le sort de la papauté et la conservation du pouvoir temporel, sans cacher non plus qu'aux yeux du gouvernement de la reine, la Convention du 15 septembre était un témoignage solennel offert par le gouvernement de S. M. le roi Victor-Emmanuel de sa résolution de mettre un terme aux agitations de l'Italie et une garantie publique pour l'Europe. Que l'on note bien que rien de ce qui fut dit alors ne provoqua ni observations ni remarques de la part du cabinet de Florence. ¶ Nous sommes donc dans le droit d'affirmer que nous n'avons point dévié de la ligne politique que nous nous sommes tracée, et que, loin de la cacher, nous l'avons, dès le principe, montrée avec loyauté et franchise. On ne saurait non plus, comme le fait le général La Marmora, donner le nom d'ingérence aux démarches que nous avons faites auprès du gouvernement impérial par l'entremise de l'ambassadeur de Sa Majesté à Paris. Le fait d'être restés étrangers à la conclusion de la convention du 15 septembre, et d'avouer en conséquence, qu'il ne nous appartenait ni de l'interpréter, ni de la faire exécuter, n'a pu, comme je l'ai déjà dit, signifier que nous fussions indifférents à la question Romaine, ni que nous admissions la validité de cette doctrine qu'à l'Italie et à la France seules appartient le droit de s'occuper de ce qui touche un État indépendant comme l'est celui du saint-siége, ni moins encore nous priver de la faculté et du droit de faire des observations à un gouvernement ami dont l'opinion, sur cette question, était identique à la nôtre, et qui donnait la même importance que nous à la conservation du pouvoir temporel, et dont un des hommes les plus considérables de l'Italie, le comte de Cavour, avait déclaré que le consentement était

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nécessaire pour que Rome arrivât à être la capitale du nouveau royaume. ¶ Nous n'avons donc tenté aucun acte d'ingérence à nous montrer d'accord avec la signification que le Gouvernement impérial accorde à la convention, ni à nous servir du droit qui nous appartient de nous occuper d'une question dont nous n'avons jamais caché l'intérêt pour l'Espagne; et s'il était nécessaire d'appuyer de quelques preuves cette affirmation, il suffirait de remarquer que, loin de repousser nos démarches, la France les a accueillies avec le même sentiment amical qui nous les suggérait. Et il était naturel qu'il en fût ainsi: les efforts de l'Espagne en faveur du pouvoir temporel sont exempts de toutes vues ultérieures qui pourraient les faire paraître intéressées; les opinions se trouvent en outre d'accord sur ce point avec ce qu'a, à diverses fois, exposé le Gouvernement impérial, dont les déclarations ont été bien récemment reproduites, ainsi qu'il résulte de la dépêche adressée par le baron de Malaret au ministre des affaires étrangères de l'Empereur sous la date du 2 janvier dernier. Dans cette dépêche, le représentant de la France dit entre autres choses que, en plus d'une occasion, il avait manifesté, au nom de son Gouvernement, à S. Exc. le général La Marmora, que la France, en arrêtant la convention du 15 septembre, l'avait fait dans l'intention d'assurer la coexistence, en Italie, de deux souverainetés distinctes: celle du pape réduite à ses proportions actuelles, et celle du nouveau royaume. ¶ C'est cet état de choses que l'Espagne a reconnu en renouant ses rapports avec l'Italie; par conséquent, on ne saurait l'accuser avec fondement de vouloir s'entremettre dans l'interprétation de la convention, puisque, dans le cas présent, elle ne fait qu'adhérer à l'explication constamment donnée par une des parties contractantes, avec laquelle il semble que l'autre doive être d'accord. ¶ Mais alors même qu'il y aurait une raison, et certes il n'en existe point, pour accuser l'Espagne d'ingérence, je crois que ce serait au Gouvernement Français à exprimer le blâme que mériterait cette conduite, et en aucune manière à S. Exc. le général La Marmora, auprès duquel nous n'avons fait aucune démarche, aucune tentative d'aucune espèce relativement à cette affaire. En résumé, le gouvernement de la reine ne peut considérer comme lui étant adressées des observations qu'il n'a provoquées ni par sa conduite, ni par des déclarations ou des doctrines qu'il s'approprie spontanément et considère comme siennes, cela est certain, mais desquelles il ne peut être regardé comme l'auteur. ¶ Dans une autre partie de sa dépêche, le général La Marmora, même en courant le risque de ruiner une des principales bases de ses plaintes, reconnaît la liberté complète et l'indépendance réciproque que les deux gouvernements Espagnol et Italien se sont réservées en renouant leurs rapports, mais immédiatement il m'attribue un langage et des actes peu bienveillants pour l'Italie. ¶ Si ces actes auxquels il fait allusion ne sont autres que ceux constatés dans les documents publiés, Votre Excellence peut l'assurer que, en désirant la conservation du pouvoir temporel du pape, le gouvernement de la reine et moi ne sommes animés d'aucun sentiment qui ne soit bienveillant pour la monarchie italienne. ¶ Je ne suis point le seul, et l'Espagne n'est pas la seule puissance qui croie le pouvoir temporel utile et nécessaire pour le digne et libre exercice des attributions spirituelles du Père commun des fidèles; mais il ne faut pas conclure de là, comme l'a fait le

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général La Marmora, en regrettant de me voir placé sur ce terrain, que j'aie soutenu comme convenable la confusion des pouvoirs spirituel et civil dans les rapports de Rome avec les autres États catholiques. ¶ Le paragraphe de la dépêche du 8 novembre, à laquelle Votre Excellence se réfère, n'exprime pas l'espérance que certaines provinces comprises aujourd'hui dans le royaume d'Italie se séparent plus tard de lui. Le gouvernement Espagnol pense, et il n'est pas le seul à voir cette opinion, qu'un arrangement et une mutuelle conciliation conviennent autant à Rome qu'à l'Italie, du moment où les deux États sont appelés à vivre vis-à-vis l'un de l'autre et en même temps. ¶ Partant de ce principe, je crois que si le général La Marmora relit le paragraphe en question, il se convaincra que la phrase à laquelle il fait allusion peut être considérée comme un argument en faveur du but que je voulais atteindre en l'écrivant, argument basé sur des exemples récents et sur la possibilité de nouveaux événements dans la Péninsule, à la suite desquels le cas pourrait arriver où Rome en viendrait à rentrer en possession de quelques-unes de ses anciennes provinces, sans détriment pour l'unité, et que cela se réalisât pacifiquement avec le consentement du gouvernement Italien lui-même et au bénéfice de toutes les parties intéressées. ¶ Je crois avoir répondu point par point à la dépêche adressée par le général La Marmora au représentant de sa nation près notre cour, mais je ne finirai pas sans charger Votre Excellence de tâcher de dissiper toute prévention que pourrait conserver le gouvernement Italien relativement aux sentiments qui animent celui de S. M. la reine. Que Votre Excellence veuille donc manifester au ministre des affaires étrangères que, si l'Espagne, fidèle à ses promesses et à ses engagements, et en vertu de la liberté qu'elle s'est réservée et des déclarations qu'elle a faites en renouant ses relations diplomatiques, s'intéresse vivement au maintien de la souveraineté temporelle du saint-siége, elle ne laisse pas pour cela d'éprouver pour le royaume d'Italie la plus grande amitié et sympathie. La spontanéité de la reconnaissance et les discours prononcés par moi dans le sénat en sont un bon témoignage. Le général La Marmora ne doit point enfin douter de la sincérité avec laquelle nous désirons conserver et resserrer les bons rapports qui nous unissent à un peuple qui a avec nous une commune origine et qui possède des institutions semblables aux nôtres. ¶ Votre Excellence voudra bien donner lecture de cette dépêche à M. le ministre des affaires étrangères, et lui en laisser copie s'il le désire. ¶ Dieu vous garde, etc.

M. Bermudez de Castro.

No. 2207.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Allgemeine Instructionen für d. bevorsteh. handelspol. Unterhandl. mit Preussen.*) —

Turin, 28. Januar 1865.

No. 2207. Italien, 28. Jan. 1865.

Herr Minister! . . . Wie Ew. Hochwohlgeboren bekannt ist, sind die Handelsbeziehungen zwischen Italien und Preussen durch den Han-

*) No. 1997 folg.

dels- und Schifffahrtsvertrag, abgeschlossen zwischen Sardinien und dem Zollverein am 23. Juni 1845, und durch die additionellen Conventionen vom 20. Mai 1851 und 28. October 1859 regulirt. ¶ Preussen gehört jedoch zu denjenigen Europäischen Staaten, welche auf dem Italienischen Markte noch nicht die durch unsere neuesten Verträge festgesetzten Tarifreductionen erhalten und uns dagegen ihrerseits nicht die Rechte der meistbegünstigten Nation zugestanden haben. ¶ Im Mai 1864, als die Unterhandlungen wegen der Reconstituirung des Zollvereins noch nicht begonnen und man das Ziel noch nicht erreicht hatte, welches die Handelspolitik des Berliner Cabinets anstrebte, äusserte Herr von Bismarck im Vertrauen dem Graf von Launay, dortigen Minister des Königs, den Wunsch der Preussischen Regierung, mit der Italiens Handelsverträge, analog denen, welche gerade damals zwischen Preussen und Belgien abgeschlossen worden waren, zu stipuliren. ¶ Die Regierung des Königs glaubte solche Eröffnungen, zu denen Preussen die Initiative ergriff, nicht ablehnen und ihres Theils dem Unternehmen des Berliner Cabinets, eine in Bezug auf Oesterreich unabhängigere und den wahren ökonomischen Interessen Deutschlands angemessnere Handelspolitik anzubahnen, kein Hinderniss in den Weg legen zu dürfen. ¶ Das Ergebniss der zwischen der Gesandtschaft Sr. Maj. und dem Preussischen Minister des Auswärtigen gepflogenen Unterhandlungen war, dass man anerkannte, dass die abzuschliessenden Verträge für die auf den Handel und die Schifffahrt bezüglichen Stipulationen die Form eines Protokolls, und für die auf das literarische und artistische Eigenthum bezüglichen die Form einer Convention erhalten sollten. Das Protokoll müsste, ausser der Verpflichtung, über einen förmlichen Vertrag zu unterhandeln, sobald die gegenwärtigen Verbindlichkeiten Preussens gegen seine Verbündeten im Zollverein erloschen wären, alle diejenigen commerciellen und maritimen Stipulationen enthalten, zu welchen der Beitritt der übrigen Staaten des Zollvereins nicht unbedingt nöthig sei, und welche ohne Verzug und vor dem Erlöschen des Fundamentalvertrags des Deutschen Zollverbandes in Kraft treten könnten. ¶ Auf diesen Grundlagen wurde der Graf von Launay zu unterhandeln und ein Protokoll und eine Convention zu unterzeichnen bevollmächtigt; aber seine Instructionen vom 12. August 1864, von denen Sie gef. Einsicht nehmen wollen, lauteten, dass er bis zu Ende die Initiative aller Verhandlungen der Preussischen Regierung überlassen solle, um mit Evidenz festzustellen, dass die Königl. Regierung, was auch das Ergebniss der Unterhandlungen sein möchte, dem von Sr. Exc. dem Premierminister Sr. M. des Königs von Preussen zu erkennen gegebenen Wunsche nur deshalb willfahre, um ihm einen Beweis seiner Freundschaft zu geben. ¶ Die Abwesenheit des Herrn von Bismarck machte eine Unterbrechung in den Unterhandlungen nothwendig. ¶ Als der Graf von Launay nach einem bewilligten Urlaub im Monat November auf seinen Posten zurückkehrte, bestätigte das neue Cabinet, dem ich die Ehre habe zu präsidiren, die Instructionen, welche das vorige Ministerium für diese Angelegenheit ertheilt hatte, und die Vollmacht, das Protokoll und die Convention zu unterzeichnen, wurde aufrecht erhalten, unter der Bedingung jedoch, dass die Preussische Regierung, was weniger wahrscheinlich geworden war, die Initiative für den Ab-

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schluss dieser Verträge von Neuem ergreifen würde. ¶ In der That hatten sich in dieser Zwischenzeit wichtige Begebenheiten zugetragen. Neue Phasen in der Herzogthümerfrage hatten eine grössere Annäherung zwischen der Politik Preussens und der des Wiener Cabinets herbeigeführt. — Der Zollverein hatte sich eben reconstituirt. — Der Königl. Minister hatte Gelegenheit wahrzunehmen, dass es Preussen von seinem Gesichtspunkte aus für angemessen hielt, den Abschluss der von ihm eröffneten commerciellen Verhandlungen auf spätere Zeiten zu verschieben. ¶ Unter solchen Verhältnissen, auf deren Möglichkeit die Königl. Regierung von Anfang an sich gefasst machte, glaubten wir die Stellung, die wir während des Verlaufs der Unterhandlungen eingenommen hatten, in keiner Weise modificiren zu dürfen. Wir beschränkten uns darauf, von der Suspension der Verhandlungen von Seiten Preussens Act zu nehmen, und trugen Sorge, die Stellung, welche der Graf von Launay, der gewandte und treue Dolmetsch der Gedanken der Königl. Regierung, zu behaupten gewusst hatte, noch einmal ins rechte Licht zu stellen. Erst nach Ueberreichung seiner Abberufungsschreiben suchte Ihr Vorgänger, Herr Graf, um Zurückerstattung der Vollmacht, welche er eingereicht hatte. — Wenn also die Königl. Regierung sie ihm bis ans Ende seiner Mission liess, wollte sie damit beweisen, dass es nicht ihr zur Last zu legen sei, wenn die Unterhandlungen zu keinem gewünschten Resultate führen sollten. ¶ Die commerciellen Beziehungen zwischen Italien und Preussen werden indessen nach wie vor nach den alten Verträgen vom Jahre 1845 geregelt, zu denen die Additional-Conventionen aus den Jahren 1851 und 1859 nur theilweise Modificationen brachten. Das Inkrafttreten der Preussischen Verträge mit Frankreich und Belgien wird den 1. Juli d. J. den Producten jener beiden Länder sowie auch derjenigen Staaten, welche dem Zollverein die Rechte der meist begünstigten Nation zugestehen, den Deutschen Markt unter günstigen Bedingungen öffnen. Wir werden von dieser Begünstigung ausgeschlossen sein, aber, wie Ew. Hochwohlgeboren nicht unbekannt ist, liegt es weit mehr im Interesse des Deutschen als des nationalen Handels, dass liberale Verträge den gegenseitigen Handelsverkehr unterstützen. Die Berathungen einer gewissen Anzahl Deutscher Handelskammern und namentlich der Bayrischen und Würtembergischen, sowie auch die Berichte der Preussischen Consuln in Italien bezeugen ausdrücklich diese Thatsache. ¶ Bei dem dermaligen Zustande der Dinge und da die Reconstituirung des Zollvereins die Lage vollständig geändert hat, können die Projecte eines Protokolles und einer Convention, von denen ich Ihnen schrieb, nicht mehr als zulässig beibehalten werden. Wir beabsichtigen übrigens, uns auch ferner jeder Initiative hinsichtlich der commerciellen Unterhandlungen mit dem Zollverein zu enthalten. Sollte der Preussische Premierminister Ihnen hierüber Eröffnungen machen, so werden Sie als auf den Anfang neuer Verhandlungen gef. darauf eingehen und Sich darauf beschränken, ihn um diejenigen Aufklärungen zu ersuchen, welche geeignet sind, die Ansichten der Königl. Regierung darüber festzustellen, inwieweit man auf die Vorschläge eingehen könnte, die man Ihnen etwa machen würde. ¶ Genehmigen Sie, etc.

La Marmora.

No. 2208.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Neue Unterhandlungen wegen des Abschlusses eines Preussisch-Italienischen Handelsvertrages. —

Berlin, 7. Mai 1865. (Erhalten den 10.)

No. 2208. Italien, 7. Mai 1865.

Herr Minister! Wie ich bereits die Ehre hatte, Ihnen durch den Telegraph zu berichten, ergriff Herr von Bismarck, mit welchem ich gestern mich zu unterhalten Gelegenheit hatte, selbst von freien Stücken die Initiative neuer Unterhandlungen wegen des Abschlusses eines Handelsvertrags zwischen Italien und dem Zollverein. ¶ Die öffentliche Meinung hatte sich in den letzten Tagen bereits der Frage bemächtigt, und ich erfuhr, dass man im Schoosse der Commission der Bevollmächtigten des Zollvereins diese Frage zum Gegenstande einer förmlichen Discussion gemacht und auf die Schwierigkeiten hingewiesen hatte, dass Italien noch nicht von allen Staaten des Zollverbandes anerkannt sei, indem man als das geeignetste Mittel dieses Hinderniss zu überwinden anrieth, dass Preussen allein die Unterhandlungen wegen eines Vertrages mit Italien führe und dann seine Bundesgenossen um deren allmählichen Beitritt ersuche. ¶ Herr von Bismarck erinnerte, dass die Suspension der von meinem Vorgänger im verflossenen Jahre geführten Unterhandlungen durch Umstände veranlasst worden sei, welche jetzt nicht mehr obwalten. ¶ In Gemässheit der Anweisungen, welche mir Ew. Exc. in den allgemeinen Cabinetsinstructionen unterm 28. Januar gaben, antwortete ich Herrn von Bismarck, dass die Regierung des Königs bereit sei, auf neue Unterhandlungen über Herstellung regelmässiger Handelsbeziehungen zwischen Italien und dem Zollverein einzugehen, dass sie jedoch nicht wünsche, dass die neuen Unterhandlungen an die des verflossenen Jahres angeknüpft würden. „Damals, bemerkte ich, war der Zollverein noch nicht reconstituirt: Preussen, das augenblicklich gebunden war, aber in wenigen Monaten freie Hand haben sollte, konnte es opportun finden, mit uns nicht über einen Vertrag, sondern nur über ein Protokoll zu verhandeln, welches bei Ablauf des Termins des Deutschen Zollverbandes ein förmlicher Vertrag mit dem Zollverein und Preussen werden sollte, jenachdem sich der Verein mehr oder weniger auf der Basis des Vertrags mit Frankreich nicht allein, sondern auch auf der der Protokolle, welche mit Belgien oder Italien abgeschlossen würden, reconstituiren könnte. Jetzt dagegen ist kein Grund vorhanden, weshalb man nicht in den gewohnten Formen einen förmlichen Vertrag zwischen Italien und Preussen abschliessen sollte, da das Letztere kraft des Einflusses, welchen ihm das Herkommen und der Organismus des Zollvereins verschafft haben, denselben repräsentirt. Es ist deshalb nicht möglich, die neuen Verhandlungen als eine blosse Fortsetzung derer zu betrachten, welche im verflossenen Jahre einzig und allein die Stipulation eines einfachen Protokolles bezweckten.“ ¶ S. Exc. Herr von Bismarck schien die Richtigkeit meiner Bemerkungen anzuerkennen und einzuräumen, dass es nicht mehr wie billig sei, dass die herzustellende Einigung die Form eines feierlichen Vertrages haben müsse, angenommen und ratificirt in den Formen, welche allen zum Zollverein gehören-

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den Staaten ohne Unterschied geläufig seien; er erklärte, dass es der Preussischen Regierung ihrerseits ein Leichtes sein werde, den Verhandlungen, welche zwischen den Cabinetten von Turin und Berlin angeknüpft werden sollten, die gewünschte Richtung zu geben. ¶ Herr von Bismarck fügte beim Abschied hinzu, dass der Graf von Usedom beauftragt sei, Ew. Exc. den eben erwähnten analoge Eröffnungen zu machen. ¶ Ew. Exc. würden mich zu Danke verpflichten, wenn Sie mich davon in Kenntniss setzen wollten, welches die Gedanken der Königl. Regierung über diese Wendung der Dinge sind, damit ich meine Sprache damit in Uebereinstimmung bringen kann. ¶ Genehmigen Sie, etc.

C. von Barral.

No. 2209.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Das Verhältniss der übrigen Zollvereinsstaaten zu dem Abschluss eines Preussisch-Italienischen Handelsvertrags und die Anerkennung des Königreiches Italien durch die Zollvereinsstaaten betr. —

Florence, 14 mai 1865.

No. 2209. Italien, 14. Mai 1865.

Monsieur le Ministre, les ouvertures qui vous ont été faites par S. E. M. de Bismarck pour la conclusion d'accords commerciaux entre l'Italie et le Zollverein, et les propositions qui m'étaient faites en même temps et dans le même sens par M. le comte d'Usedom, d'ordre de son Gouvernement, ont été reçues avec plaisir par le Gouvernement du Roi, comme un acheminement à l'établissement de meilleurs rapports économiques entre l'Italie et l'Allemagne. ¶ J'ai entièrement approuvé le langage que vous avez tenu dans cette circonstance au Ministre des Affaires Étrangères de S. M. le Roi Guillaume; de mon côté, j'avais fait à peu près les mêmes observations à M. le comte d'Usedom. Il nous paraît incontestable que la seule forme désormais admissible pour les arrangements commerciaux à intervenir entre le Zollverein et l'Italie, c'est la conclusion d'un traité formel qui serait régulièrement accepté et solennellement ratifié par les autres États de l'Union douanière allemande. Je vois avec plaisir que M. de Bismarck a reconnu que ce point de vue est, de notre part, le plus naturel et le plus vrai, et qu'il ne se refuse pas à s'y placer avec nous. ¶ Cela établi, il reste à déterminer d'un commun accord, et dans le but d'assurer le succès définitif des négociations, les conditions à défaut desquelles le résultat final en pourrait être compromis malgré le bon vouloir du Gouvernement Prussien et le nôtre. ¶ Je m'empresse, Monsieur le Ministre, de déclarer qu'en ce qui concerne les pouvoirs que la Prusse exerce au nom du Zollverein, sauf ratification de la part des États qui le composent, pour la négociation des traités de commerce avec d'autres pays, le Gouvernement du Roi n'entend nullement les contester, et qu'il ne demande pas à cet égard des garanties plus amples que celles que trouvent les autres États dans leurs négociations commerciales avec le Gouvernement Prussien comme représentant du Zollverein. ¶ Il existe un seul obstacle exceptionnel à l'adhé-

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sion finale des autres États du Zollverein au traité à conclure entre la Prusse et l'Italie. Cet obstacle qui peut, tant qu'il existera, rendre illusoires les engagements dont la Prusse et l'Italie traiteraient en toute loyauté, c'est la non-reconnaissance du Royaume d'Italie de la part de la majeure partie des États qui composent le Zollverein. ¶ C'est précisément en vue d'assurer un résultat sérieux aux négociations dont la Prusse prend l'initiative, et afin de montrer à S. E. M. de Bismarck ma confiance dans les bonnes dispositions qu'il nous témoigne, que je vous ai donné pour instructions, par le télégraphe, de vous en remettre à lui-même du soin d'indiquer quelle assurance les deux Gouvernements peuvent avoir que les stipulations à intervenir entre eux ne seront pas rendues illusoires par les difficultés d'ordre politique existantes entre le Gouvernement Italien et la plupart des Gouvernements membres de l'Union douanière allemande. En laissant à S. E. M. de Bismarck toute latitude à cet égard, le Gouvernement du Roi est d'ailleurs conséquent avec la résolution qu'il a constamment maintenue de ne faire aucune démarche, ni directe ni indirecte, pour hâter la reconnaissance de l'Italie de la part des États qui ne croient pas encore devoir suivre en cela l'exemple des premières Puissances d'Europe. ¶ J'ai maintenant à vous faire connaître que M. le comte d'Usedom est venu ce matin me déclarer au nom de son Gouvernement que la Prusse est prête, si l'Italie le désire, à proposer aux autres États membres du Zollverein la reconnaissance politique du Royaume d'Italie en vue de la conclusion d'un traité formel entre le Royaume et le Zollverein. ¶ Cette communication, Monsieur le Ministre, témoigne que la Prusse partage notre opinion sur la convenance d'assurer aux négociations à suivre entre l'Italie et la Prusse les mêmes conditions pratiques de succès définitif qui existent pour les négociations commerciales entre la Prusse et les États étrangers que reconnaissent les Gouvernements membres du Zollverein. C'est à ce point de vue seulement que le Gouvernement du Roi veut envisager la déclaration que M. d'Usedom vient de lui transmettre. Dans ces termes, je reconnais qu'elle est de nature à donner aux négociations à intervenir les garanties nécessaires. ¶ Le Gouvernement du Roi veut du reste demeurer si étranger à toute action qui serait exercée envers les États moyens en vue de la reconnaissance de l'Italie, que par les garanties dont il est question ici, il entend uniquement l'engagement que prendrait naturellement la Prusse en traitant avec nous, et son intérêt à faire aboutir à un résultat pratique des négociations dont l'initiative n'aurait pas cessé de lui appartenir. ¶ Veuillez, Monsieur le Ministre, donner communication du contenu de cette dépêche à S. E. M. de Bismarck, et lui laisser du reste le soin de donner à ses ouvertures la suite qu'il jugera convenable. ¶ Agréez, etc.

La Marmora.

No. 2210.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Die Form der Regelung der handelspolitischen Beziehungen zu dem Zollverein betr. —

Berlin, 20. Mai 1865. (Erhalten den 24.)

No. 2210. Italien, 20. Mai 1865.

Herr Minister! Kaum hatte ich die Cabinetsdepesche erhalten, welche Ew. Exc. unterm 14. d. M. an mich richteten, als ich mich beeilte, S. Exc. den Ministerpräsidenten von dem Inhalte derselben in Kenntniss zu setzen. Nachdem wir die verschiednen Bedingungen, welche angenommen werden könnten, besprochen hatten, kamen wir zu einer Auskunft, deren wesentliche Grundlagen ich Ew. Exc. bereits durch den Telegraphen mittheilte. ¶ Indem wir von jeder Art von Protokoll oder *modus vivendi*, als von Grund aus unzulässig absahen, da solches nur zur Folge haben würde, dass ein sowohl diplomatisch wie ökonomisch anormales Verhältniss zwischen Italien und den Deutschen Staaten fortdauern würde, kamen wir von jetzt an ausdrücklich überein, dass nur noch von einem förmlichen Vertrage die Rede sein solle, welcher die Anerkennung des Königreichs Italien von Seiten aller den Zollverein bildenden Staaten nothwendig mache. ¶ Ihrerseits macht sich die Regierung des Königs nur verbindlich, einen förmlichen Handelsvertrag mit Preussen zu schliessen, sobald die Hindernisse als beseitigt betrachtet werden können, welche sich der Ausführung eines wirksamen Vertrages dieser Art entgegenstellen würden; übrigens überlassen wir es ganz der Einsicht Preussens, zu beurtheilen, ob diese Hindernisse gehoben sind oder nicht. ¶ Herr von Bismarck, welcher, wie ich Ew. Exc. bereits meldete, die günstigsten Gesinnungen gegen uns hegt, zeigte mir an, dass er bereits in München, Stuttgart, Dresden und Hannover Eröffnungen habe machen lassen, auf die er jedoch noch keine förmliche Antwort erhalten, und es würde die Preussische Regierung bald kategorischere Vorschläge an diese Cabinette gelangen lassen. ¶ Herr von Bismarck gab mir den Wunsch zu erkennen, man möchte mittels eines Notenaustausches officiell die von beiden Regierungen gegenseitig übernommenen Verpflichtungen constatiren, und ich hatte bereits die Ehre, Ew. Exc. um die nöthige Autorisation und geeigneten Instructionen hierzu telegraphisch zu ersuchen. ¶ Genehmigen Sie, etc.

C. von Barral. *)

No. 2211.

ITALIEN. — Min. d. Ausw. an die Kön. Vertreter in Carlsruhe und Frankfurt. — Die handelspolitischen Unterhandlungen mit Preussen betr. —

Florence, 2 juin 1865.

No. 2211. Italien, 2. Juni 1865.

Monsieur, — Comme vous le savez, l'Allemagne ne jouit pas sur le marché italien des avantages assurés à la plupart des États européens par nos

*) Die hier folgende Note Barral's an den Grafen von Bismarck siehe St.-Arch. No. 1998.

traités les plus récents, bien qu'elle ait au moins autant d'intérêt que l'Italie à l'établissement réciproque entre les deux pays de relations commerciales conformes aux progrès du droit conventionnel économique en Europe. ¶ Dans le dessein de mettre un terme, autant qu'il dépend de lui, à cet état de choses, le Cabinet de Berlin nous a fait dernièrement des ouvertures pour la négociation d'accords commerciaux entre les deux États. Le Gouvernement du Roi y a répondu en témoignant les meilleures dispositions et en déclarant qu'il ne tiendrait pas à lui que des stipulations propres à assurer le plus large développement possible des intérêts commerciaux des deux pays ne fussent arrêtés entre la Prusse et l'Italie. ¶ Toutefois la situation respective de l'Italie et de la majeure partie des États membres du Zollverein étant irrégulière et présentant par cela même des obstacles d'une nature exceptionnelle, les deux Gouvernements ont dû d'abord traiter en voie préliminaire de la forme à donner aux accords éventuels à intervenir. ¶ On eut à examiner divers modes de procéder. L'un de ces modes eût été que les Gouvernements de Florence et de Berlin établissent de fait, par un simple protocole, un *modus vivendi* entre l'Italie et le Zollverein. Mais cette forme d'arrangement ne pouvait pas être considérée par le Gouvernement du Roi comme convenable à l'égard d'États qui ne reconnaissent pas l'Italie. ¶ On ne pouvait pas davantage s'arrêter à un autre procédé qui eût consisté, en concluant un traité avec la Prusse agissant en son nom seulement, à stipuler que les avantages, au moyen d'une combinaison de certificats d'origine à déterminer, en seraient appliqués au fur et à mesure en Italie à chaque État du Zollverein qui eût accédé en due forme au traité, pendant que l'Italie eût attendu pour jouir de ces mêmes avantages sur le marché allemand l'adhésion de tous les États du Zollverein. Ni la dignité, ni les intérêts de l'Italie ne permettaient au Gouvernement du Roi de stipuler des accords de cette nature. ¶ Il ne restait donc qu'à s'occuper de la conclusion d'un traité formel, auquel adhéreraient en bonne et due forme tous les États membres du Zollverein, et qui ne pourrait devenir exécutoire, de part et d'autre, qu'après les ratifications des Chefs de ces États. Le Cabinet de Berlin, en effet, a paru apprécier l'importance des raisons qui nous déterminaient à regarder ce mode de procéder comme le seul admissible, et nous a exprimé loyalement et spontanément son intention d'user de son influence légitime auprès de ses confédérés de l'Union douanière pour écarter les obstacles que leur attitude politique oppose à l'établissement d'accords commerciaux entre l'Italie et le Zollverein sur la base indiquée. ¶ En conséquence, et pour reconnaître les bonnes dispositions du Cabinet Prussien, le Gouvernement du Roi a autorisé M. le comte de Barral à déclarer à S. E. M. de Bismarck qu'il est prêt à accorder à l'Allemagne le traitement de la nation la plus favorisée, fondé sur le principe d'une parfaite réciprocité et rentrant dans le système des traités passés avec la France et la Belgique; qu'il regarde comme indispensable à tous les points de vue que les accords à intervenir consistent en un traité formel que ratifieraient tous les membres du Zollverein, et que sur cette base, mais sur cette base seulement, il est tout disposé à conclure avec la Prusse des conventions commerciales que dans l'intérêt de l'Allemagne comme de l'Italie il sera heureux de voir aboutir. ¶ Vous remarquerez, Monsieur,

No. 2211. Italien, 2. Juni 1865.

qu'en posant la question dans ces termes, le Gouvernement du Roi n'a point entendu demander la reconnaissance du Royaume d'Italie de la part des États du Zollverein comme condition préliminaire des négociations commerciales à suivre avec la Prusse. Dans notre pensée, il appartenait exclusivement à celle-ci de choisir et d'employer les moyens nécessaires pour que le traité à conclure sur la base convenue pût devenir exécutoire. Du reste nous nous en remettions entièrement au Gouvernement Prussien du soin d'apprécier jusqu'à quel point il pouvait ou devait, selon le droit et l'usage allemand, agir dès à présent au nom de ses confédérés, ou se concerter d'avance avec eux. ¶ C'est par suite de cette résolution prise par le Gouvernement du Roi de se borner en tout ceci à répondre de la manière la plus satisfaisante possible à l'initiative de la Prusse, que je me suis abstenu de vous charger d'aucune démarche à ce sujet, et je dois à cette occasion vous prier, Monsieur, de continuer à vous comporter de manière à faire sentir que le Gouvernement du Roi attache à la reconnaissance du Royaume d'Italie de la part des autres États une valeur exactement proportionnelle à l'empressement et aux sentiments de cordialité qu'ils peuvent y mettre. ¶ Sur ces entrefaites, S. E. M. de Bismarck vient d'avoir l'occasion de déclarer à la Chambre des Députés de Berlin que dans la situation actuelle, telle qu'elle est déterminée par les explications échangées entre lui et nous, il n'y a pas d'autres empêchements à l'établissement de bonnes relations commerciales entre les deux pays que ceux que peut présenter la constitution particulière du Zollverein; il a ajouté qu'en conséquence il se croyait en devoir de négocier sans retard avec les Gouvernements des autres États du Zollverein, desquels il dépend actuellement d'affranchir, selon l'expression très-juste de S. E. M. de Bismarck, les rapports commerciaux des deux pays des dommages que leur porte l'état de choses actuel. ¶ Quel que soit le résultat prochain de démarches du Cabinet de Berlin auprès de ces États, je tiens, Monsieur, à ce que vous régliez votre conduite sur les informations qui précèdent, et dont le point capital est que l'Italie ne prend aucune part, ni directe ni indirecte, aux tentatives que fait en ce moment la Prusse, dans l'intérêt surtout de l'Allemagne, pour amener ses confédérés de l'Union douanière à des dispositions qui n'excluent pas la ratification en bonne forme du traité éventuel dont il est question. ¶ Agréez, etc.

La Marmora.

No. 2212.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Die handelspolit. Stellung Italiens zu Oesterreich betr. —

Berlin, 5. Juni 1865. (Erhalten den 8.)

No. 2212. Italien, 5. Juni 1865.

Herr Minister! . . . . Herr von Bismarck fragte mich dieser Tage, welches die gegenwärtige Lage Italiens in seinen Handelsbeziehungen zu Oesterreich sei. Ich antwortete ihm, dass der Vertrag vom 18. October 1851 zwischen Sardinien und Oesterreich noch zu Recht bestehe und daher kein Zweifel sei,

dass Oesterreich auf Grund des Artikel 15 des Vertrages selbst wenigstens vertragsmässig die Rechte der meistbegünstigten Nation habe. ¶ Genehmigen Sie, etc.

No. 2212. Italien, 5. Juni 1865.

C. von Barral.

No. 2213.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Vorschlag Preussens, den Deutsch-Englischen Vertrag zum Muster des Vertrags mit Italien zu nehmen. —

Berlin, 6. Juni 1865. (Erhalten den 9.)

No. 2213. Italien, 6. Juni 1865.

Herr Minister! Herr von Bismarck sagte mir, nach seinem Dafürhalten würde es in mehr als einer Hinsicht angemessen sein, für den bevorstehenden Abschluss eines Vertrags zwischen Italien und dem Zollverein die Grundzüge des jüngst zwischen dem Zollverein und England abgeschlossnen Vertrags gelten zu lassen. ¶ Dieser Vorschlag würde unter Anderm den Vortheil haben, dass eine grössere Wahrscheinlichkeit vorhanden wäre, dass man von Seiten der andern Staaten des Zollvereins einen Vertrag mit Italien nicht zurückweisen könne, während man soeben einen mit England ganz identisch stipulirten annehme. ¶ Ich erwiderte Herrn von Bismarck, ich sehe im Princip keine Schwierigkeit in der Annahme des Vertrags auf der Basis des Englisch-Deutschen, dessen Stipulationen mit denen des Vertrags zwischen dem Zollverein und Belgien ganz identisch sind, da wir den letztern bereits für annehmbar erklärt hatten; doch könne ich eine definitive Antwort erst dann geben, wenn ich die Instructionen erhalten hätte, um welche ich die Königl. Regierung augenblicklich ersuchen würde. ¶ Ew. Exc. wollen mir daher gef. die hierauf bezüglichen Befehle zukommen lassen, damit ich das Herrn von Bismarck gegebne Versprechen erfüllen kann. ¶ Genehmigen Sie, etc.

C. von Barral.

No. 2214.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Bereitwilligkeit, auf der Basis des Deutsch-Englischen Handelsvertrags mit Preussen zu negociiren, und die handelspolitischen Verhältnisse zwischen Oesterreich und Italien betr. —

Florence, 11 juin 1865.

No. 2214. Italien, 11. Juni 1865.

Monsieur le Ministre, — La circulaire dont S. E. M. de Bismarck accompagne l'envoi aux Gouvernements membres du Zollverein de votre dépêche adressée à S. E. en date du 21 mai, est une nouvelle preuve que le Cabinet de Berlin est guidé, dans cette circonstance, par les notions les plus justes et les plus élevées sur l'intérêt de l'Allemagne. Tout en continuant à rester entièrement étrangers aux négociations dont cette pièce parait marquer le début entre la Prusse et les États moyens, nous en suivrons la marche avec intérêt et sym-

No. 2214. Italien, 11. Juni 1865.

pathie. Nous connaissons trop bien les liens de Cour et les affinités politiques où quelques-uns des Gouvernements allemands sont engagés, pour ne pas prévoir que des hésitations et des divergences intérieures d'un caractère plus ou moins grave seront chez les États moyens et pour un temps peut-être assez long le principal résultat des ouvertures prussiennes. Quoiqu'il en soit, nous nous associons sincèrement aux souhaits que forment aujourd'hui les meilleurs amis de l'Allemagne pour que les besoins économiques, le commerce et l'industrie de cette nation ne soient pas sacrifiés dans cette occasion à une politique d'antagonisme qui nuit avant tout à ses auteurs. ¶ Comme nouvel éclaircissement sur nos dispositions à l'égard des négociations commerciales qui pourront ultérieurement avoir lieu entre les deux pays, S. E. M. de Bismarck, à ce que vous me faites connaître par votre dépêche du 7 juin, désire savoir si nous consentirions, le cas échéant, à négocier sur la base du traité anglo-allemand. ¶ Je ne vois, non plus que mes collègues les Ministres des Finances et de l'Agriculture et Commerce, aucune difficulté à ce que les bases du traité anglo-allemand soient admises pour le futur traité de commerce entre l'Italie et le Zollverein. Je dois à cette occasion confirmer ce que j'ai eu plus d'une fois l'occasion de dire à M. le comte d'Usedom: c'est que lorsque ces négociations viendraient à s'ouvrir, la Prusse nous trouverait prêts à accorder les faveurs commerciales les plus larges. En effet, l'importance des rapports futurs entre l'Italie et l'Allemagne, en dehors des relations officielles entre Gouvernements, est telle à nos yeux, que nous n'épargnerions, pour préparer et faciliter ces rapports, aucune des concessions que peut autoriser l'état actuel de nos traités de commerce comme de ceux du Zollverein avec les autres Puissances. ¶ C'est dans ce sens que vous voudrez bien répondre aux demandes d'éclaircissements préalables de M. de Bismarck, et vous êtes spécialement autorisé à répondre affirmativement à sa question relative à l'acceptabilité de notre part des bases du traité anglo-allemand. ¶ A l'égard du traitement dont jouit actuellement l'Autriche en Italie, et que M. de Bismarck désire connaître exactement, vouz pourrez l'informer que le Traité austro-sarde de 1851 a été étendu à tout le Royaume, par mesure d'unification, et s'y trouve appliqué sans réciprocité de la part de l'Autriche, qui continue à appliquer à une partie de nos exportations les clauses de traités qui sont périmés, et à adresser pour les formalités nécessaires les provenances de quelques-uns de nos ports à de prétendus consuls qui ne représentent aucun État actuellement existant. ¶ L'article 15 du Traité austro-sarde de 1851, par lequel le traitement de la nation la plus favorisée sera appliqué de plein droit et à titre gratuit par chacun des deux États à l'autre, n'a pas eu d'application pour l'Autriche dans les États du Roi depuis 1859, l'Autriche ne nous ayant jamais demandé, depuis l'époque de l'agrandissement du Royaume, à jouir des faveurs accordées par les traités de commerce et de navigation postérieurement conclus par nous. L'Autriche, en fait, ne jouit donc pas plus que le Zollverein des avantages qu'assurent au commerce de la France, de l'Angleterre, etc. nos traités avec ces États; mais l'Autriche conserve actuellement cet avantage sur le Zollverein, que pour être admise à en jouir, elle n'a pas besoin, comme celui-ci, de conclure avec l'Italie un arrangement particulier et de compenser par des concessions équiva-

lentes celles qui lui seraient faites, mais seulement d'invoquer expressément le bénéfice de l'article 15 en accordant, dans les formes requises par notre dignité, la réciprocité dans l'Empire à tout le Royaume d'Italie sans distinction de provinces. ¶ Le mouvement d'opinion très-favorable qui se manifeste dans la presse allemande à l'égard de ces négociations a produit la meilleure impression en Italie. Les journaux les plus importants de la Péninsule témoignent à l'envi des sympathies du peuple italien pour la noble nation allemande, et reconnaissent le caractère éclairé et libéral de l'initiative prise par la Prusse pour un rapprochement si profitable aux intérêts des deux pays. Je continue à compter sur votre activité et votre sagesse éprouvée, Monsieur le comte, afin que, quelle que soit l'issue des négociations actuelles, le Gouvernement du Roi puisse se rendre le témoignage de s'être prêté, dans l'intérêt des deux peuples, à tout ce que pouvait lui permettre le soin légitime de sa dignité.

No. 2214. Italien, 11. Juni 1865.

La Marmora.

No. 2215.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Ein Preussisches Circularschreiben an die Zollvereinsstaaten über die Vortheile eines Handelsvertrags mit Italien betr. —

Berlin, 10. Juni 1865. (Erhalten den 14.)

No. 2215. Italien, 10. Juni 1865.

Herr Minister! Ew. Exc. finden beiliegend die französische Uebersetzung eines neuen Circulars des Preussischen Cabinets an seine Agenten bei den Regierungen der Zollvereinsstaaten, um ihre Aufmerksamkeit auf die äusserst unvortheilhafte Lage zu lenken, in welcher sich der Handel des Zollvereins in Italien befindet im Vergleich zu den so günstigen Bedingungen, deren Oesterreich sich auf Grund der Anwendbarkeit des Artikel 15 des Vertrags von 1851 zu erfreuen hat. — Genanntes Circular enthält sich jedes Commentars über den bemerkenswerthen Umstand, dass Oesterreich, obgleich es den Regierungen Süddeutschlands räth, Italien nicht anzuerkennen, sich wohl hütet, ihnen wissen zu lassen, dass die Zukunft seiner eignen Handelsbeziehungen mit dem neuen Königreich gesichert ist, und dass es erforderlichen Falls darauf rechnen kann, auf dem ganzen Italienischen Gebiet in den Genuss der Rechte der meistbegünstigten Nation gesetzt zu werden. ¶ Genehmigen Sie, etc.

C. von Barral.

No. 2216.

ITALIEN. — Ges. in Berlin an den Kön. Preuss. Min. d. Ausw. — Annahme des Deutsch-Englischen Handelsvertrags als Basis eines mit dem Zollverein abzuschliessenden Tractats. —

Berlin, le 14 juin 1865.

No. 2216. Italien, 14. Juni 1865.

Monsieur le Président, conformément au désir que Votre Excellence a bien voulu m'en exprimer, je n'ai point manqué de m'adresser à mon Gou-

No. 2216. Italien, 14. Juni 1865. vernement pour lui demander si, comme base d'une convention commerciale à intervenir entre le Zollverein et l'Italie, il serait disposé à accepter le récent traité conclu par le Zollverein avec l'Angleterre et qui vient d'être ratifié par tous les membres de l'Union douanière allemande. Je m'empresse aujourd'hui de venir informer Votre Excellence que d'après les instructions que j'ai reçues de Florence, je suis autorisé à lui déclarer que le Gouvernement du Roi n'a pas de difficulté a accepter cette offre, et qu'il est prêt à conclure un traité commercial avec le Zollverein sur la base proposée. ¶ Veuillez agréer, etc.

C. de Barral.

No. 2217.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — In Berlin gemachte Oesterreichische Vorstellungen gegen den Abschluss eines Handelsvertrags mit Italien betr. —

Berlin, den 20. Juni 1865. (Erhalten den 24.)

No. 2217. Italien, 20. Juni 1865. Herr Minister! . . . Ich erfahre so eben, dass an einem der letzten Tage der Oesterreichische Geschäftsträger Herr von Choteck, sich in das Ministerium des Auswärtigen begab, um Seitens seiner Regierung Klagen über eine Eventualität vorzubringen, welche für Oesterreich in ihren Folgen so nachtheilig werden könne, nämlich über den Abschluss eines Handelsvertrages zwischen dem Zollverein und Italien, und dass er zur Antwort erhielt, Preussen könne die materiellen Interessen Deutschlands nicht rein politischen Rücksichten opfern. ¶ Genehmigen Sie, etc.

C. v. Barral.

No. 2218.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Ablehnung einer nicht die Anerkennung Italiens involvirenden Vertragsform. —

Florenz, 9. Juli 1865.

No. 2218. Italien, 9. Juli 1865. Herr Minister! Es wird mir berichtet, dass einige zum Zollverein gehörende Regierungen beabsichtigen, die Präcedenzien des Einlösungsactes des Scheldezolls und der internationalen Telegraphen-Convention vom 16. Mai d. J. behufs Ratificirung des künftigen Italienisch-Deutschen Handelsvertrags ohne Anerkennung des Königreichs Italien anzurufen. ¶ Es ist Ihnen bekannt, Herr Minister, dass die Königl. Regierung beschlossen hat, dem Parlamente in keinem Falle einen in irgend welcher Form zwischen Italien und dem Zollverein abgeschlossnen Handelsvertrag vorzulegen, so lange nicht die betheiligten Staaten das Königreich Italien anerkennen. Es wäre also überflüssig, bei einem solchen Gedanken in einer andern Absicht als der zu verweilen, den grossen Unterschied hervorzuheben, der zwischen den Präcedenzien, welche man anrufen möchte, und dem gegenwärtigen Falle stattfindet. ¶ Der Einlösungsact des Scheldezolls und

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die neue Pariser Telegraphen-Convention hatten den Charakter collectiver Verträge, an denen sich eine grosse Anzahl Mächte betheiligte. ¶ Da der Delegirte der Königl. Regierung in den Versammlungen der Bevollmächtigten auch Vertreter von solchen Mächten vor sich hatte, welche das Königreich Italien nicht anerkannt haben, so konnte, ja musste er zugeben, dass das Verhältniss jener Mächte zum Königreich Italien vorbehalten werde, damit nicht etwa eine Schwierigkeit, die für die meisten contrahirenden Mächte nicht vorhanden war und die noch dazu ausser allem Zusammenhang mit und ausser jeder selbst indirecten Wechselbeziehung zu den Fragen stand, welche zu lösen waren, das Zustandekommen einer Einigung von allgemeinem Interesse störe. Dieser Vorbehalt war um so natürlicher, als die Mächte, abhängig von der in den Acten der Conferenz beobachteten Form der Procedur, unter einander keine diplomatischen Verbindungen pflogen und sich demnach so zu sagen einander nicht gegenüber standen: sie konnten sich nicht als zu individuellen und directen Verhandlungen unter einander verpflichtet betrachten, weil die moralische Persönlichkeit der Conferenz gewissermassen die der einzelnen Vertretungen absorbirte, und überdies hätten dann die Ratificationen nur zwischen jeder einzelnen Macht einerseits und der, welche die Initiative der Einigung übernommen hatte, andererseits ausgetauscht werden sollen. ¶ Ich brauche Sie nicht erst auf den völligen Unterschied aufmerksam zu machen, welcher zwischen der gleichzeitigen Betheiligung von Mächten stattfindet, die in diplomatischer Beziehung zu einander stehen auf einer Conferenz, welche sie ebenfalls beschicken und in welcher sie als dritte Mächte die grosse Majorität bilden, — und zwischen der Lage des Zollvereins uns gegenüber in Betreff der Unterhandlung über ein commercielles Uebereinkommen. Hier hätten die Zollvereinsstaaten direct und ausschliesslich mit Italien zu verhandeln und würden mit ihm die Ratificationen des Vertrags austauschen. Die Beziehungen, welche man zu ordnen wünschte, würden ausschliesslich zwischen ihnen und Italien herrschen, und selbst ihre Tragweite würde bis auf einen gewissen Punkt die ökonomische Ordnung überschreiten, da die Handelsverträge von jeher keinen geringen Einfluss auf die Politik der Staaten gehabt haben. Und jetzt sollten die fraglichen Regierungen beanspruchen, mit unserer Zustimmung die Existenz des Königreichs Italien zu negiren in dem Augenblick, wo unsere Regierung ganz Italien ihrer Industrie und ihrem Handel öffnet? Ein solcher Anspruch könnte sicher nicht im Ernste erhoben werden. Zur Noth könnte sich ein solcher, wenn nicht rechtfertigen, wenigstens erklären, wenn zwischen jenen Staaten und uns eine dieser ernsten Streitfragen ungelöst schwebte, welche allein eine Macht berechtigen, die Anerkennung einer anderen zu verweigern. Dagegen erklären die in Rede stehenden Staaten ihre Stellung nur durch Anführung von Beweggründen, welche den Interessen des Zollvereins und ihrer respectiven Völker fremd sind. Derartige Vorurtheile verdienten nicht die geringste Beachtung von unserer Seite, selbst wenn sie nicht, wie es in der That geschieht, in dem sonderbaren Versuch fortführen, uns zu veranlassen, unser unwürdige Bedingungen anzunehmen. ¶ Genehmigen Sie, etc.

La Marmora.

No. 2219.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Preussische Vorschläge über den formellen Abschluss des Handelsvertrags mit Italien betr. —

Berlin, 15. November 1865. (Erhalten den 19.)

No. 2219. Italien, 15. Nov. 1865.

Herr Minister! Ich beeile mich, Ew. Exc. zu bestätigen, was ich Ihnen über folgenden uns von der Preussischen Regierung gemachten Vorschlag bereits auf telegraphischem Wege zu berichten hatte: ¶ Es soll sofort ein Handelsvertrag auf der Basis der Rechte der meistbegünstigten Nation zwischen Italien einerseits und dem im Namen des Zollvereins stipulirenden Preussen andererseits abgeschlossen werden. ¶ Die von den einzelnen Mitgliedern des Deutschen Zollverbandes angewendete Form der Ratificationen muss die Anerkennung des Königreichs Italien impliciren. ¶ Die früheren Instructionen Ew. Exc. autorisiren mich im Princip, einen solchen Vorschlag anzunehmen; gleichwohl sehe ich ferneren Anweisungen von Seiten Ew. Exc. entgegen, ehe ich bestimmte Verpflichtungen übernehme. ¶ Genehmigen Sie, etc.

C. von Barral.

No. 2220.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Zustimmung zu den vorstehend gemeldeten Preussischen Vorschlägen. —

Florence, 20 novembre 1865.

No. 2220. Italien, 20. Nov. 1865.

Monsieur le Ministre, par votre rapport du 15 courant, vous me faites connaître que le Gouvernement Prussien est disposé à conclure immédiatement avec l'Italie, en son nom et au nom du Zollverein, un traité de commerce et de navigation, sur la base du traitement de la nation la plus favorisée, traité que les autres États membres du Zollverein seraient appelés à ratifier en bonne forme. ¶ Dès les premières ouvertures que vous a faites S. E. M. de Bismarck pour la conclusion d'un traité de commerce entre l'Italie et le Zollverein, le Gouvernement du Roi a toujours laissé au Gouvernement Prussien le choix entre les deux modes de procéder qui s'offraient dans cette négociation: l'un consistant à ce que la Prusse s'assurât préalablement de l'adhésion des autres États allemands avant de conclure le traité avec l'Italie; l'autre par lequel la Prusse aurait signé tout d'abord, comme représentant le Zollverein, le traité de commerce avec nous, en se chargeant de déterminer les autres États à y adhérer. Dans l'un et l'autre cas, le Gouvernement du Roi a toujours entendu et déclaré que le traité de commerce ne pourrait entrer en vigueur qu'après les ratifications formelles de tous les Gouvernements de l'Union douanière. ¶ Nous sommes prêts, Monsieur le Ministre, à signer avec la Prusse un traité de commerce dans les conditions avantageuses et libérales qui ont déjà été indiquées d'avance dans la correspondance officielle échangée entre les deux Gouvernements à ce sujet, en laissant

entièrement à la Prusse et à ses confédérés du Zollverein le soin de s'entendre pour que cet acte international puisse devenir le plus tôt possible obligatoire dans son application au commerce du Zollverein avec l'Italie. Vous avez été autorisé dès le mois de mai dernier à en donner l'assurance formelle et à en prendre l'engagement au nom du Gouvernement du Roi envers le Gouvernement Prussien, et cette autorisation, Monsieur le Ministre, vous est aujourd'hui pleinement confirmée par le Gouvernement du Roi. ¶ Agréez, etc.

No. 2220. Italien, 20. Nov. 1865.

La Marmora.

No. 2221.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Den Abschluss der Unterhandlungen mit Preussen betr. —

Berlin, 25. November 1865. (Erhalten den 28.)

No. 2221. Italien, 25. Nov. 1865.

Herr Minister! Auf Grund der mir von Ew. Exc. durch Cabinetsdepesche vom 20. d. M. übertragenen Vollmacht nahm ich den neuen Vorschlag der Preussischen Regierung, dessen wesentlichen Inhalt ich Ew. Exc. in meinem Bericht vom 15. d. M. mittheilte, an. ¶ Herr v. Thiel und ich kamen jedoch überein, dass nach wenigen Tagen ein Handelsvertrag zwischen Italien und Preussen, welches im Namen des Zollvereins stipulire, zu signiren sei, und dass die übrigen Zollvereinsstaaten förmlich eingeladen werden sollen, dem Modus beizutreten, welchen ich Ew. Exc. in demselben Berichte mittheilte. Basis des Vertrags wird die des Englisch-Deutschen Vertrags sein, und ich behalte mir vor, Ew. Exc. baldigst zur gef. Prüfung ein genaues Muster zuzusenden, in welchem die Veränderungen angegeben sein werden, welche durch die in England und Italien verschiedenen Verhältnisse bedingt sind. ¶ Der Termin für den Austausch der Ratificationen soll nicht bestimmt, aber in dem Vertrag ausdrücklich gesagt werden, dass dieser Austausch so bald als möglich stattzufinden habe. — Indess solle die Ausführung des Vertrags ausgesetzt bleiben und erst nach dem Austausch der Ratificationen mit allen Staaten des Zollvereins obligatorisch an sich werden. ¶ Genehmigen Sie, etc.

C. von Barral.

No. 2222.

ITALIEN. — Ges. in Karlsruhe an den Kön. Min. d. Ausw. — Bereitwilligkeit der Grossherzogl. Badischen Regierung zu verschiedenen internationalen Verträgen mit Italien. —

Karlsruhe, 15. April 1865. (Erhalten den 19.)

No. 2222. Italien, 15. April 1865.

Herr Minister! Unter den speciellen Instructionen, welche mir das Königl. Ministerium betreffs meiner Mission nach Baden übersandte, war auch die, zu gelegner Zeit über einige Verträge zwischen dem Grossherzogthum und Italien, namentlich über Beziehungen hinsichtlich der Consuln, der Posten, der

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Auslieferung und anderer von gegenseitigem Nutzen zu unterhandeln, mit Ausschluss derer, über welche Preussen als Vertreter des Zollvereins allein competent ist, mit den auswärtigen Staaten im Namen Deutschlands zu verhandeln. ¶ In meinen ersten officiellen Unterredungen mit dem Grossherzogl. Minister des Auswärtigen machte ich mir es daher zur Pflicht, ihm die Wünsche der Königl. Regierung hinsichlich genannter zu stipulirender Verträge mitzutheilen, und S. Exc. antwortete, Sie sei gern bereit, auf die von uns ergriffne Initiative einzugehen. ¶ Als mich in jüngster Zeit Herr Baron von Roggenbach über die zwischen dem neuconstituirten Zollverein und den verschiedenen Staaten Europas geschlossnen Verträge, und besonders über den commerciellen und politischen Nutzen eines baldigen Vertragsabschlusses zwischen dem Zollverein und Italien unterhielt, sagte mir der Grossherzogl. Minister, indem er sich meiner früheren Eröffnungen erinnerte, er beabsichtige, Studien über die verschiednen zwischen Baden und den Europäischen Staaten abgeschlossnen Verträge, einschliesslich der mit den Italienischen jetzt unter der Krone von Savoyen vereinigten Ex-Staaten, anstellen zu lassen, und im Allgemeinen Elemente zu sammeln, welche geeignet sind, ein genaues Kriterium über die nützlichsten und zu baldigen Verhandlungen zwischen Baden und Italien passendsten Verträge und Conventionen zu bilden; er behielt sich vor, mir seiner Zeit das Resultat der von der Grossherzogl. Kanzlei unternommenen Studien mitzutheilen. ¶ Ich antwortete Sr. Exc., ich würde mich, sobald seine Arbeit fertig wäre, beeilen, Ew. Exc. um Ordres zu ersuchen, durch welche ich in specielleren Punkten autorisirt würde, officielle Verhandlungen anzuknüpfen. ¶ Soeben erhielt ich nun vom Grossherzogl. Ministerium ein Schreiben, von welchem ich Ihnen hier in Erwartung der Ordres Ew. Exc. eine Abschrift übersenden zu können mich glücklich schätze. ¶ Ohne mich zum Richter über die Opportunität der in der beigefügten Note des Barons von Roggenbach angedeuteten Conventionen und Verträge aufzuwerfen, erlaube ich mir doch, Ew. Exc. darauf aufmerksam zu machen, dass der Nutzen solcher internationaler Stipulationen sich nicht auf die Beziehungen zwischen Italien und Baden beschränkt, sondern sich auch auf die zwischen Italien und ganz Deutschland erstreckt, und dass eine Reform dieser Beziehungen fortan leichter herzustellen sein wird, wenn Baden durch sein Beispiel bewiesen hat, dass auf diese Weise Vortheile zu erreichen sind. Zu den Motiven, welche ähnliche Verträge räthlich machen, gehört die von Tag zu Tag wachsende Zahl der (besonders an Eisenbahnen angestellten) Italiener, welche sich gegenwärtig in Süddeutschland befinden, und besonders die nicht geringe Zahl der verschiedenartigsten Privatinteressen, welche sicher mit den neuen Localverträgen, die in Folge des Handelsvertrages zwischen dem Zollverein und Italien vervollständigt worden sind, und mit der Ausführung jenes Schienenweges über die Schweizeralpen, welcher Deutschland in directe Verbindung mit dem Königreich Italien setzen wird, einer ausgebreiteten Entwickelung entgegen gehen. ¶ Genehmigen Sie, etc.

Oldoini.

No. 2223.

BADEN. — Min. d. Ausw. an den Kön. Ges. in Karlsruhe. — Vorschläge zu verschiedenen internationalen Verträgen mit Italien. —

Carlsruhe, le 7 avril 1865.

No. 2223. Baden. 7. April 1865.

Monsieur le Marquis, je n'ai pas manqué de soumettre à l'appréciation du Gouvernement du Grand-Duc, mon Auguste Maître, le désir que vous m'avez fait l'honneur de m'exprimer au nom du Gouvernement de Sa Majesté le Roi d'Italie, et tendant à voir se resserrer et se multiplier les relations internationales qui unissent si heureusement les deux pays, par les stipulations usuelles du droit des gens entre deux nations qui jouissent également des bienfaits d'une législation libérale. Un examen consciencieux des matières dans lesquelles les lois des deux pays se rencontrent à peu près dans les mêmes principes, a fait voir qu'abstraction faite des différentes branches de l'administration publique, où le Gouvernement Grand-Ducal, par sa position comme membre de la Confédération germanique, de l'Union commerciale allemande, etc., est empêché de traiter directement et avec toute son indépendance avec des Puissances étrangères, il reste encore beaucoup d'objets d'administration intérieure que l'on pourrait régler sur le principe de réciprocité avec un État dont les relations avec le Grand-Duché continuent à augmenter au profit commun. ¶ En premier lieu, les relations entre les autorités judiciaires des deux pays paraissent faire désirer un arrangement légal pour amener une action prompte et régulière de la justice internationale. ¶ Nous venons de proposer au Gouvernement Royal d'entrer en délibérations sur la conclusion d'un traité pour l'extradition réciproque des malfaiteurs, et d'une convention en vertu de laquelle les tribunaux des deux pays feraient remettre réciproquement les significations, actes judiciaires et citations, et exécuter les commissions rogatoires en matière tant civile que criminelle. Nous possédons une série de pareils traités avec d'autres États, qui garantissent l'exécution des jugements des tribunaux respectifs et facilitent la marche des procès et des enquêtes. Dernièrement encore nous avons conclu un traité de ce genre avec le Gouvernement des Pays-Bas, et je me permets de le joindre en copie à la présente, cette convention pouvant peut-être servir de modèle pour les propositions à venir, sauf les modifications exigées par la législation de l'Italie. Sous ce rapport, il serait à désirer que le Ministère Grand-Ducal de la Justice pût prendre plus ample connaissance des lois en vigueur en Italie, et il serait très-obligé qu'on mît à sa disposition les codes civil et pénal, ainsi que les codes de procédure civile et criminelle actuellement en vigueur dans le Royaume, accompagnés, si faire se peut, des traductions en français; il lui serait également d'un haut intérêt de pouvoir connaître les Traités que le Gouvernement Italien a conclus sur la matière avec d'autres États, nommément avec la France. Je me permets de recommander ces désirs à votre bienveillante entremise. ¶ Le Gouvernement Grand-Ducal croit en outre que le grand principe de la liberté individuelle, qui est reconnu par la législation des deux pays, permettra de s'occuper de la libre admission des nationaux à la résidence ou au séjour dans les deux

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États, et au libre exercice de toute sorte d'industries et de professions de leur part. Par les lois du 24 septembre et du 4 octobre 1862, ces principes d'égalité entre les nationaux et les étrangers ont été sanctionnés d'une manière presque illimitée pour le Grand-Duché, dont le Gouvernement jusqu'ici ne s'est pas encore vu dans le cas de faire usage des dispositions de la loi du 4 octobre 1862, qui lui donnent la faculté de restreindre les droits des étrangers dans le pays d'après les exigences d'une sévère réciprocité. Il a été conclu à cet effet le 31 octobre 1863 un Traité entre le Grand-Duché et la Suisse, qui pose la réciprocité de la situation des deux pays dans ce sens en principe général, et qui sera peut-être propre à servir de base à un arrangement de cette nature avec le Gouvernement de Turin. Les restrictions contenues dans les articles 1 et 2 correspondent à l'état actuel des législations des deux pays dans le cas où l'égalité de la position des étrangers et des nationaux ne peut pas encore être admise entièrement, et où les Parties contractantes ne croyaient pas pouvoir céder sans avoir reçu d'autre part la concession d'une réciprocité pleine; comme, par exemple, il y a des différences sensibles dans le système des impôts pour les marchands ambulants non résidants dans le pays, entre le Grand-Duché et la Suisse. ¶ . . . Agréez, etc.

Roggenbach.

No 2224.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Karlsruhe. — Bemerkungen über die von Seiten der Badischen Regierung gemachten Vorschläge. —

Florence, 20 juin 1865.

No. 2224. Italien, 20. Juni 1865.

Monsieur le Ministre, avec votre rapport en date du 15 avril dernier, vous m'avez transmis copie d'une Note qui vous a été adressée par S. E. le Ministre Grand-Ducal des Affaires Étrangères, en date du 7 avril, au sujet de la négociation d'accords entre le Royaume d'Italie et le Grand-Duché de Bade. ¶ S. E. M. de Roggenbach constate d'abord qu'en dehors des différents objets de l'administration publique sur lesquels le Gouvernement Grand-Ducal est empêché de traiter directement avec nous par sa condition de membre du Zollverein, il reste encore un vaste terrain où la similitude des principes qui dirigent les deux administrations permet de régler sur la base d'une parfaite réciprocité des rapports mutuels de la plus grande importance. Il nous propose par conséquent de conclure dès aujourd'hui une convention touchant l'extradition des malfaiteurs et l'exécution des arrêts judiciaires, ainsi qu'un traité de libre établissement. S. E. M. de Roggenbach vous a en outre expliqué quelles seraient, dans la pensée du Gouvernement Badois, les bases des négociations à intervenir. ¶ Je vous prie, Monsieur le Ministre, d'exprimer à S. E. le Ministre Grand-Ducal toute la satisfaction que nous avons éprouvée des bonnes dispositions qu'il a bien voulu nous témoigner, et de lui donner l'assurance que notre empressement ne sera pas moindre pour arriver à la conclusion d'accords également réclamés par les intérêts des deux pays. ¶ Quant aux bases proposées par S. E. M. de Rog-

genbach pour les négociations que le Gouvernement Badois est prêt à commencer dès à présent, bien que la Convention conclue entre Bade et les Pays-Bas au sujet de l'extradition réciproque des malfaiteurs et de l'exécution des arrêts judiciaires, que le Gouvernement du Roi a prise en examen sérieux, soit en principe parfaitement acceptable, je ne puis toutefois me dispenser d'observer qu'il sera préférable à plusieurs points de vue d'attendre, pour prendre des engagements positifs à cet égard, que la convention analogue qui est sur le point d'être conclue entre l'Italie et la Suisse soit un fait accompli. Le Gouvernement Grand-Ducal comprendra aisément qu'il est de notre intérêt commun d'attendre que l'un et l'autre Gouvernement puisse examiner si la convention à conclure entre Bade et l'Italie ne pourrait pas être modelée sur celle qui va régler les relations entre l'Italie et un pays avec lequel le Grand-Duché entretient aussi bien que nous-mêmes des rapports nombreux et importants. La même remarque peut être appliquée à la convention de libre établissement, un arrangement de ce genre étant en ce moment même en voie de négociation entre le Gouvernement du Roi et la Confédération suisse. Il est superflu d'ajouter que je m'empresserai de vous transmettre les conventions avec la Suisse dont je viens de parler, aussitôt qu'elles seront définitivement conclues, en vous priant de les soumettre à l'examen du Gouvernement Grand-Ducal. ¶ Bien que S. E. le baron de Roggenbach se borne dans sa Note du 7 avril aux objets dont je viens de parler, nous pensons que d'autres accords pourront encore être utilement stipulés entre l'Italie et le Grand-Duché de Bade nonobstant la situation spéciale créée à celui-ci par sa qualité de membre du Zollverein. Une convention garantissant la propriété littéraire et artistique pourrait en effet être conclue entre les deux Gouvernements, en prenant pour bases les conventions de ce genre les plus récentes stipulées par l'Italie avec la France et la Belgique. Une convention consulaire pourrait aussi être négociée sur les bases de celle qui est en vigueur entre l'Italie et la France, sauf toutefois quelques légères modifications, qui sont effectuées dans la copie rectifiée que je vous transmets ci-joint. ¶ A l'égard d'une convention postale, je dois vous faire connaître que les négociations engagées depuis longtemps à ce sujet avec la Prusse n'ont pas encore abouti. L'intention du Gouvernement du Roi étant de proposer comme point de départ au Gouvernement Grand-Ducal les accords qui seront conclus avec cette puissance pour les arrangements à intervenir entre les deux Gouvernements à ce sujet, je m'empresserai de vous transmettre la convention postale italo-prussienne aussitôt qu'elle sera signée, dans la confiance que le Gouvernement Grand-Ducal la trouvera acceptable à tous les points de vue. ¶ Enfin, en ce qui concerne la négociation d'un traité de commerce avec le Zollverein, je ne puis que me référer complétement aux indications contenues dans ma dépêche de Cabinet du 2 juin courant*). Désirant au surplus que le Gouvernement du Grand-Duché ne puisse pas conserver l'ombre d'un doute sur le bon vouloir avec lequel nous avons examiné, dans un désir sincère de le trouver praticable, le deuxième des modes d'arrangement auxquels je fais allusion dans ma dépêche précitée du 2 courant, je crois devoir entrer dans

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*) No. 2211.

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quelque développement à cet égard. ¶ Dans le système dont il s'agit, aucun État du Zollverein n'aurait été admis de droit, il est vrai, sur le marché italien au bénéfice des réductions et des facilités consenties par le traité que nous aurions stipulé avec la Prusse seule, sinon après y avoir fait adhésion formelle par un acte emportant la reconnaissance du Royaume d'Italie. Toutefois, en admettant pour un instant qu'il n'existât aucun obstacle de principe à l'établissement d'une combinaison de certificats d'origine, il est trop évident que la garantie résultant de ces certificats aurait été illusoire dans un très-grand nombre de cas. Mais précisément l'expérience longuement faite des graves inconvénients auxquels donne lieu l'application de toute combinaison quelconque de certificats d'origine a déterminé, à partir de nos plus récents Traités, le Gouvernement du Roi à l'exclure progressivement des arrangements commerciaux qu'il conclura à l'avenir. Je puis vous dire à ce sujet que dans les négociations en cours avec la Suisse il a été convenu de réduire à un tel point le nombre des marchandises pour lesquelles le certificat d'origine continuera d'être requis, que cette formalité, si gênante pour le commerce, peut être regardée comme à peu près abolie dans nos rapports avec la Suisse. Nous ne pourrions nous déterminer, Monsieur le Ministre, à rétablir pour l'Allemagne un mode de procéder que nous nous attachons à détruire dans nos rapports avec les autres États: ce serait à la fois une flagrante contradiction de notre part, et un préjudice porté au fonctionnement régulier de notre organisation douanière. ¶ Il y a plus. Le défaut absolu de réciprocité pour l'Italie sur tout le marché du Zollverein, inévitable jusqu'à ce que l'adhésion de tous les États qui le composent se fût réalisée, rendait à lui seul inadmissible le mode indiqué. Et d'abord des considérations de dignité ne permettraient pas au Gouvernement du Roi de consentir à une manière de procéder par suite de laquelle le commerce tout entier de l'Italie en Allemagne pourrait rester à la merci des plus petits États du Zollverein, tandis que la plupart peut-être des États de l'Union douanière se seraient assuré à leur gré en Italie, au fur et à mesure de leur adhésion, tous les avantages de la nation la plus favorisée. Accepter une telle combinaison, c'eût été autoriser à croire que l'objet réel en était, non pas un échange de concessions commerciales sur une base conforme à la dignité des deux pays, mais je ne sais quel marché où l'Italie aurait apporté ses faveurs commerciales et chaque État du Zollverein sa reconnaissance politique. Je ne crois pas nécessaire, Monsieur le Ministre, de m'arrêter davantage à un tel point de vue. ¶ Mais à supposer même que la dignité de l'Italie eût pu paraître sauvegardée par une combinaison semblable, l'inégalité je dirai presque choquante des conditions d'un tel arrangement au préjudice de l'Italie aurait soulevé dans le pays la plus vive opposition, et il n'aurait pas été permis de s'attendre que le Parlement y pût consentir. ¶ Agréez, etc.

La Marmora.

No. 2225.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Bereitwilligkeit der Kön. Bayerischen Regierung, in regelmässige diplomatische Beziehungen mit dem Königreich Italien zu treten. —

Berlin, 10. November 1865. (Erhalten den 14.)

No. 2225. Italien, 10. Nov. 1865.

Herr Minister! Der Bayerische Minister am hiesigen Hofe, Herr Graf von Montgelas, kam gestern Abend, um mir im Namen seiner Regierung officiell mitzutheilen, dass das Münchener Cabinet die Absicht habe, die regelmässigen diplomatischen Beziehungen mit dem Könige von Italien wiederherzustellen. ¶ Er fügte hinzu, dass nach dem Dafürhalten seiner Regierung eine solche Wiederherstellung mittels der einfachen Ernennung ausserordentlicher Gesandter und bevollmächtigter Minister, welche bei den respectiven Höfen zu residiren hätten, vollzogen werden müsse, und er erklärte mir, dass das Münchener Cabinet das Vertrauen hege, Italien werde dieses Mittel, die neuen Beziehungen zwischen beiden Regierungen in der für beide Länder befriedigendsten Form wieder anzuknüpfen, annehmbar finden. ¶ Den Instructionen gemäss, welche Ew. Exc. in Folge meiner telegraphischen Mittheilung dieses glücklichen Ereignisses die Gewogenheit hatten, an mich, ebenfalls mit dem Telegraphen, zu richten, versicherte ich dem Grafen von Montgelas, dass die Regierung des Königs diese Nachricht mit aufrichtiger Freude begrüsst habe und, um den wohlwollenden Intentionen der Königl. Bayerischen Regierung zu entsprechen, sich beeilen werde, zur Ernennung eines Königl. Ministers beim Bayrischen Hofe zu schreiten. ¶ Die Anerkennung des Königreichs Italien von Seiten der Bayrischen Regierung hat insofern einen besondern Werth, als sie eine freiwillige, auf politische Motive begründete Handlung ist, und als unter diesen Motiven namentlich die Rücksicht auf die Stellung Italiens unter den Europäischen Mächten und besonders unter den katholischen Staaten viel zu dieser Anerkennung beigetragen hat. Sie wird daher auch ohne Zweifel die Entwickelung der freundschaftlichen Dispositionen und die Verwirklichung besserer commercieller Beziehungen zwischen beiden Ländern erleichtern. ¶ Genehmigen Sie, etc.

C. von Barral.

No. 2226.

ITALIEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Bereitwillige Annahme des Bayerischen Vorschlags. —

Florenz, 15. November 1865.

No. 2226. Italien, 15. Nov. 1865.

Herr Minister! Mit Freuden vernahm die Königl. Regierung die officielle Nachricht des Entschlusses der Regierung Sr. Maj. des Königs von Bayern, mit dem Königreich Italien gute und regelmässige diplomatische Beziehungen wiederherzustellen. ¶ Die Königl. Regierung legt grossen Werth auf die uns vom Grafen von Montgelas kundgegebenen günstigen Gesinnungen des Münche-

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ner Cabinets und wird nichts unterlassen, was dazu beitragen kann zu beweisen, wie sehr sie es für ihre Pflicht hält, diese Gesinnungen zu erwidern. ¶ Es war immer und ist mehr denn je unsere Ueberzeugung, dass kein Grund vorhanden ist, weshalb nicht zwischen den edeln Deutschen Volksstämmen und der Italienischen Bevölkerung beständige Freundschaft walten sollte. Und in der Thatsache der freiwilligen Anerkennung durch Bayern erblickt die Königl. Regierung eine glückliche Vorbedeutung für die Entwickelung und das Wachsthum solcher Beziehungen. ¶ Indem ich Sie ersuche, Sich zum Dolmetsch dieser Gefühle der Königl. Regierung bei dem dortigen Bayrischen Vertreter zu machen, erneuere ich Ihnen, etc.

La Marmora.

No. 2227.

NEAPEL. — Vertreter Franz II. in München an den Kön. Bayer. Min. d. Ausw. — Protest gegen die Anerkennung des Königreichs Italien. —

Munich, le 18 novembre 1865.

No. 2227. Neapel, 18. Nov. 1865.

Monsieur le baron, j'ai reçu la note, en date du 17 de ce mois, par laquelle Votre Excellence m'annonce que S. M. le roi de Bavière a jugé nécessaire d'établir des relations diplomatiques entre la Bavière et le royaume d'Italie. ¶ Je ne doute pas que S. M. le roi, mon auguste maître, sera péniblement affecté de cette résolution d'un gouvernement pour lequel il a toujours eu et témoigné la plus haute estime, et avec lequel il se faisait un véritable plaisir d'entretenir les relations les plus amicales. ¶ L'avenir prouvera si l'Europe entière, et particulièrement les États de second ordre, pourront désormais invoquer en leur faveur le droit, la justice et la foi des traités violés contre le roi des Deux-Siciles, après avoir vu avec indifférence s'accomplir la révolution italienne, et avoir reconnu l'usurpation du royaume des Deux-Siciles, que le roi de Sardaigne a consommée, en foulant aux pieds les droits incontestables et légitimes de mon auguste maître, son proche parent et allié. ¶ Je m'empresserai d'informer sans délai mon Gouvernement de cette résolution du Gouvernement Bavarois, en lui transmettant la copie de la note de Votre Excellence. Mais dès à présent, au nom et par ordre de mon auguste souverain, je viens ici protester solennellement, et renouveler en cette occasion les protestations les plus formelles et les réserves les plus explicites en faveur des droits de Sa Majesté le roi François II et de sa dynastie à la couronne des Deux-Siciles et de l'indépendance de ses peuples, droits que le roi sent le devoir de garantir et conserver intacts pour l'avenir, tant pour lui que pour ses peuples qui gémissent sous le joug d'un gouvernement illégitime, qui se croit autorisé à y commettre des actes contraires à tout sentiment d'humanité et indigne de la civilisation moderne. ¶ Quelque pénible qu'il soit pour le roi mon auguste maître de protester contre des actes du gouvernement d'un souverain son proche parent et allié, dont la politique traditionnelle a été la défense de la légitimité, de l'ordre et de la justice, Sa Majesté n'oubliera jamais les sentiments nobles et loyaux que Sa Ma-

jesté le roi de Bavière a de tout temps témoignés à son égard. ¶ La détermination du Gouvernement Bavarois de reconnaître le royaume d'Italie étant essentiellement en violation de tout droit de souveraineté du roi sur le royaume des Deux-Siciles, met fin de fait à mes relations diplomatiques avec la cour royale de Bavière. Il ne me reste, en conséquence, qu'à prier Votre Excellence de vouloir bien exprimer à S. M. le roi de Bavière ma profonde reconnaissance pour l'aimable accueil que j'ai reçu et les témoignages de bienveillance dont j'ai été honoré pendant les quelques années que j'ai représenté mon souverain près du roi de Bavière, et dont je garderai le plus précieux souvenir. ¶ Avant de terminer, je sens aussi le devoir de vous prier de vouloir agréer mes vifs remercîments pour la bienveillance que Votre Excellence a bien voulu me témoigner dans les rapports officiels que j'ai eu l'honneur d'entretenir avec Votre Excellence. ¶ Je saisis cette occasion, etc.

No. 2227. Neapel, 18. Nov. 1865.

Comte *de Cito.*

No. 2228.

ITALIEN. — Ges. in Berlin an den Kön. Min. d. Ausw. — Anerbieten Sachsens, dem Preussisch-Italienischen Handelsvertrage beizutreten und das Königreich Italien anzuerkennen. —

Berlin, 14. November 1865. (Erhalten den 18.)

Herr Minister! Ich habe Ihnen das Telegramm zu bestätigen, welches ich die Ehre hatte, heute morgen an Ew. Exc. abzusenden und in welchem ich die Unterredung darlegte, die ich gestern Abend mit dem Sächsischen Minister bei diesem Hofe hatte. ¶ Graf v. Hohenthal kündigte mir im Wesentlichen an, dass seine Regierung gewillt sei, dem Handelsvertrag zu adhäriren, der zwischen Italien und Preussen in Vertretung des Zollvereins abgeschlossen werden solle. Besagte Adhärirung, fügte er bei, wird die Anerkennung Italiens einschliessen und unmittelbar die Wiederherstellung der diplomatischen Beziehungen zwischen den beiden Regierungen im Gefolge haben. ¶ Ich antwortete, dass ich mich beeilt hätte, die Regierung des Königs von den Absichten des Dresdener Cabinets in Kenntniss zu setzen. ¶ Genehmigen Sie, etc.

No. 2228. Italien, 14. Nov. 1865.

Barral.

No. 2229.

ITALIEN. — Min. d. Ausw. an den Königl. Ges. in Berlin. — Annahme des Sächsischen Anerbietens. —

Florenz, 18. November 1865.

Herr Minister! Es kam mir in gehöriger Weise der Bericht zu, wodurch Ew. Herrlichkeit mir mittheilte, es sei ihr von dem Grafen Hohenthal officiell das Vorhaben der Königlichen Regierung von Sachsen angekündigt worden, dem künftigen Handelsvertrag zwischen dem Zollverein und Italien zu ad-

No. 2229. Italien, 18. Nov. 1865.

No. 2229. Italien, 18. Nov. 1865.

häriren, indem sie damit zur Wiederherstellung der diplomatischen Beziehungen zwischen den beiden Höfen schreite. ¶ Ich habe Sie bereits telegraphisch ersucht, dem Hrn. Grafen v. Hohenthal für seine Mittheilung danken zu wollen. ¶ Die Wiederherstellung besserer ökonomischer und diplomatischer Beziehungen mit Sachsen wird in Italien gerechte Würdigung erfahren. ¶ Sowie die Regierung des Königs es den politischen Hindernissen, welche der Verwirklichung eines regelmässigen Handelsvertrags zwischen Italien und dem Zollverein entgegenstehen, überliess, von selbst sich zu mindern, so hat sie nur Act zu nehmen von der Erklärung der Sächsischen Regierung, beitragen zu wollen in der von ihr für die geeignetste gehaltenen Weise zur Erreichung eines für die Interessen der beiden Länder so vortheilhaften Zieles. Genehmigen Sie, etc.

La Marmora.

No. 2230.

ITALIEN. — Min. d. Ausw. an den Kön. Preuss. Ges. in Turin. — Beschwerde über verschiedene strenge Massregeln Oesterreichs an der Venetianischen Grenze. —

Turin, 6 décembre 1864.

No. 2230. Italien, 6. Dec. 1864.

Monsieur le Ministre, le Gouvernement du Roi a été informé dernièrement par ses Autorités sur la frontière des nouvelles mesures de rigueur adoptées par les Autorités autrichiennes, à l'égard non-seulement des émigrés vénitiens qui s'y présentent pour retourner dans leur pays, mais encore des individus appartenant aux provinces vénitiennes qui, après en être sortis sans passeport pour venir en Italie chercher du travail, qu'ils n'ont point trouvé, sont repoussés par ces Autorités à la frontière par mesure de sûreté publique, comme dépourvus de moyens d'existence, de même que celles-ci repoussent à la frontière les vagabonds ou ouvriers sans travail appartenant aux provinces du Royaume. ¶ Ce refus de recevoir les individus de cette dernière catégorie sur le territoire autrichien toutes les fois que leur expulsion n'a pas été précédée d'une entente entre les deux Gouvernements, ne paraît point justifié par les circonstances qui ont motivé les conditions mises à l'admission des émigrés vénitiens proprement dits, qui désirent se repatrier, et le Gouvernement du Roi, tout en s'abstenant pour le moment de faire traduire à la frontière les sujets autrichiens mentionnés plus haut, se plaît à espérer que les mesures qu'on leur applique actuellement ne tarderont pas à être rapportées par le Gouvernement Impérial. ¶ Mais ce qui est encore moins explicable pour nous, c'est le refus qu'on vient d'opposer à l'admission à la frontière de Peschiera du Prussien Henri Hagenberger, maçon, qui se dirigeait le 17 du mois du novembre dernier vers son pays en passant par l'Autriche, muni du passeport ci-joint, délivré par le Consul de sa nation à Toulon, et visé par la Légation Royale de Prusse à Turin. ¶ En me signalant ce fait par la Note dont je crois devoir mettre une copie sous les yeux de Votre Excellence pour son information particulière, le Ministre Royal de l'Intérieur me fait observer avec raison que la police autrichienne s'est montrée dans cette circonstance bien plus

sévère envers un ouvrier allemand, dont la profession devait le mettre à l'abri du soupçon, que ne l'ont jamais été les Autorités italiennes auxquelles on faisait, il n'y a pas longtemps, le reproche de mettre des entraves à la circulation en Italie d'individus appartenant à la nationalité allemande. ¶ Je ne doute point, par suite, que Votre Excellence ne prenne occasion de ce fait, non-seulement pour obtenir des Autorités autrichiennes que ce sujet prussien puisse au plus tôt être acheminé de nouveau par l'Autriche vers son pays natal, mais encore pour demander qu'il ne soit apporté aucun changement au système qui a été en vigueur jusqu'à ces derniers temps à l'égard de sujets autrichiens qui, ayant quitté momentanément leur pays pour des motifs étrangers à la politique, se dirigent spontanément ou sont acheminés par les Autorités Royales vers la frontière pour rentrer dans leurs foyers. ¶ En remerciant d'avance Votre Excellence des bons offices qu'elle voudra bien interposer pour me procurer une réponse conforme aux désirs que j'ai l'honneur de lui exprimer, je la prie d'agréer, etc.

No. 2230. Italien, 6. Dec. 1864.

Pour le Ministre
M. Cerruti.

No. 2231.

PREUSSEN. — Ges. in Turin an den Kön. Italien. Min. d. Ausw. — Oesterreichische Gegenerklärung auf die Italienischen Beschwerden. —

Turin, 6 janvier 1865.

Monsieur le Ministre, après avoir informé la Lieutenance Impériale et Royale de Venise du refus de réadmission opposé par les Autorités Impériales à un certain nombre de sujets autrichiens à la frontière vénitienne, ainsi que Votre Excellence m'en avait fait la demande par sa Note du 6 décembre dernier, je viens de recevoir maintenant une réponse dont j'ai l'honneur de faire suivre le contenu. ¶ Le cas s'est présenté souvent, dit la Note de la Lieutenance Impériale, que des individus qui, par l'obtention de l'émigration, avaient perdu la qualité de sujets autrichiens, ou qui n'avaient jamais possédé l'indigénat de l'Empire, ont réussi à la frontière à se faire admettre sur la simple mais fausse déclaration d'être sujets autrichiens. ¶ Pour mettre fin à ce procédé, la Lieutenance de Venise a donc ordonné aux Autorités Impériales de la frontière de refuser à l'avenir l'entrée à tout individu dépourvu de passeport régulier, d'en référer à Venise et d'y prendre les ordres pour chaque cas spécial; car ce n'est que l'Autorité centrale à Venise qui se trouve en possession suffisante des données nécessaires pour juger de la qualité d'indigénat de ceux qui demandent l'admission. ¶ Les Autorités Royales italiennes de la frontière admettent au contraire sur le territoire italien des individus non munis de papiers de légitimation. C'est pour cette seule raison que ces derniers, ne pouvant constater leur indigénat à leur retour, éprouvent des difficultés qui leur seraient épargnées d'avance si on leur demandait leurs papiers avant de les faire passer sur le territoire italien. ¶ . . . Je saisis cette occasion, etc. *Usedom.*

No. 2231. Preussen, 6. Jan. 1865.

No. 2232.

PREUSSEN. — Geschäftstr. in Florenz an den Kön. Ital. Min. d. Ausw. — Rücknahme der Oesterreichischen Massregeln. —

Florence, 30 août 1865.

No. 2232. Preussen, 30. Aug. 1865.

Monsieur le Ministre, par communication du 5 mai dernier, le Ministère I. et R. des Affaires Étrangères m'avait informé d'un décret de la Lieutenance I. et R. à Venise du 21 octobre de l'année dernière, décret qui, en vue de l'état de choses anormal d'alors, enjoignait aux Autorités Impériales des mesures de précaution relativement à l'admission à la frontière de sujets autrichiens illégalement absents, qui désiraient retourner dans leur pays. ¶ Je viens de recevoir du Ministère Impérial une nouvelle communication en date du 21 courant, que j'ai l'honneur de joindre ci-après en copie, par laquelle le Gouvernement Impérial exprime sa vive satisfaction de se trouver maintenant à même de m'informer que les mesures exceptionnelles susmentionnées ont cessé d'être en vigueur. ¶ En me réjouissant de pouvoir faire cette communication à Votre Excellence, je profite de cette occasion pour lui renouveler l'expression, etc.

Bunsen.

No. 2033.

ITALIEN. — Min. d. Ausw. an die Kön. diplom. Agenten im Auslande. — Die Nothwendigkeit der Herstellung besserer Beziehungen mit Oesterreich und die sich dem entgegenstellenden Hindernisse betr. —

Florence, 25 novembre 1865.

No. 2033. Italien, 25. Nov. 1865.

Monsieur, — Le mouvement qui s'est déclaré en Allemagne pour le rétablissement de meilleures relations avec l'Italie a eu son contre-coup en Autriche. Depuis un certain temps les organes de l'opinion publique, surtout dans les provinces allemandes de l'Empire, conseillent au Cabinet de Vienne de négocier des accords commerciaux et même de renouer des relations diplomatiques avec le Royaume. Des Chambres de commerce ont pris des délibérations où elles demandent formellement au Ministère Autrichien, au nom des intérêts matériels de la monarchie, que ses relations commerciales avec l'Italie soient améliorées. Les organes tant officieux qu'officiels du Cabinet de Vienne ont au contraire déclaré en toute occasion que des négociations régulières entre les deux pays étaient impossibles, le Gouvernement de l'Empereur ne voulant pas reconnaître le Royaume d'Italie. ¶ Je regrette, Monsieur, de ne pouvoir contester que ce que l'on regarde comme impossible à Vienne est, au point de vue italien, tout au moins très-difficile. Il serait certainement à désirer que les souffrances qu'impose aux populations limitrophes du Pô et du Mincio l'état de choses actuel fussent atténuées autant que possible, et le moyen le plus régulier d'arriver à ce résultat serait, sans aucun doute, le rétablissement de relations diplomatiques et commerciales sur un pied normal entre les deux Gouvernements.

Mais les sentiments communs qui animent les populations dont il s'agit sont tels, les faits l'ont prouvé, qu'aucun arrangement de ce genre ne leur paraîtrait acceptable s'il ne se présentait comme un acheminement à la solution de la question vénitienne: c'est malheureusement une de ces situations tendues et violentes qui rendent inapplicables, l'Autriche a pu l'apprendre par expérience, les règles ordinaires de la saine politique et de la bonne administration. La Vénétie a repoussé toutes les concessions, toutes les réformes de l'Autriche pour ne revendiquer que son indépendance: un accord qui, pour réformer quelques tarifs, et pour revêtir de formes diplomatiques plus régulières des relations politiques où il n'y aurait au fond rien de changé, semblerait interrompre cette sorte d'affirmation permanente de la nationalité des provinces vénitiennes, ne serait aujourd'hui ni admis, ni même compris en Italie. ¶ Cependant, loin de faire bon marché de la part de responsabilité qui pèse sur nous à l'égard des intérêts des populations respectives, nous nous sommes toujours préoccupés de diminuer autant qu'il est en nous les difficultés d'un état de choses que les inévitables problèmes de la question vénitienne ne rendent déjà que trop grave. Si notre dignité nous a fait un devoir de ne pas transiger sur une difficulté de forme avec les États du Zollverein, dont les intérêts réels n'ont rien d'opposé aux nôtres, les questions vitales dont il s'agit entre l'Autriche et nous sont de nature à rendre aujourd'hui inopportune de notre part toute discussion ayant trait à une reprise de rapports diplomatiques qui ne faciliterait guère, à en juger par les dispositions présentes de la Cour de Vienne, une solution pacifique, et qui pourrait avoir l'inconvénient de paraître préjuger ces questions. Il ne resterait donc, nous le reconnaissons volontiers, qu'à procéder en dehors de toute forme qui pût engager la politique des deux Gouvernements, et en vue seulement de l'amélioration de fait des relations économiques entre les deux pays. ¶ Je suis obligé de constater que le Gouvernement Autrichien ne s'est pas placé jusqu'ici sur un terrain qui permette d'en venir même à un simple accommodement de ce genre. ¶ Dans le mois d'août dernier, des ouvertures nous furent faites par l'intermédiaire d'une Puissance amie pour un arrangement „d'un caractère purement local“, disait-on, entre les autorités de la Vénétie et celles des provinces italiennes limitrophes, à l'effet de faciliter et d'étendre entre elles les relations commerciales. Je n'ai pas besoin de relever, Monsieur, ce qu'il y a d'anormal et d'impraticable dans le projet d'un arrangement purement local entre les autorités administratives de certaines provinces de deux États, quand l'un et l'autre appliquent le même régime douanier à tout leur territoire, et que l'un des deux au moins, personne ne l'ignore, entend conserver une entière unité d'administration pour toute la monarchie sans aucune distinction de provinces. ¶ Tout récemment, une démarche aussi inadmissible pour le fond, et moins recevable pour la forme fut faite par l'administration autrichienne auprès de la nôtre. La Préfecture Impériale et Royale des Finances à Venise adressa, en date du 16 septembre 1865, une Note au Ministère des Finances à Florence, demandant pour les marchandises importées *par la frontière lombarde en Lombardie* et *en Sardaigne* le traitement de la nation la plus favorisée en invoquant l'art. XV du Traité austro-sarde de 1851 remis en vigueur par les stipulations du Traité de Zurich. Tout en con-

No. 2233. Italien, 25. Nov. 1865.

statant la singularité de cette requête, le Ministre des Finances y répondit, pour déclarer que le Gouvernement du Roi d'Italie ne faisait aucune distinction entre les provinces qui ont été réunies au Royaume par le Traité de Zurich et celles qui en font partie en vertu des plébiscites, et qu'aucune différence de régime douanier n'est admissible entre elles. ¶ On reconnaîtra, Monsieur, qu'il était impossible de répondre autrement à de telles ouvertures, quelle que fût la sollicitude du Gouvernement du Roi pour les intérêts privés qui souffrent du présent état de choses. Dans un moment où la plupart des Gouvernements ressentent des besoins de paix, de transactions réciproques, de relations meilleures entre les peuples, il nous importe plus que jamais que les Puissances amies, celles surtout qui ont placé la question vénitienne au premier rang de celles dont l'Europe aurait à s'occuper dans l'éventualité de la réunion d'un Congrès général, apprécient à qui revient particulièrement la responsabilité des maux qu'entraîne la situation respective des deux monarchies. ¶ Agréez, etc.

La Marmora.



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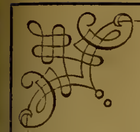
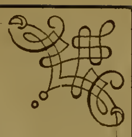
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No. 2234.

ÖSTERREICH u. **PREUSSEN** einerseits und **DÄNEMARK** andererseits. — Schluss-Protokoll der in Gemässheit der Artikel XIV, XV und XVI des Friedensvertrags vom 30. October 1864 in Kopenhagen zusammengetretenen internationalen Finanzcommission. —

No. 2234. Oesterreich, Preussen und Dänemark, 17. April 1866.

Die unterzeichneten Mitglieder der internationalen Commission, der es übertragen worden ist, eine definitive Ordnung der in den Artikeln 14, 15 und 16 des Friedensvertrages vom 30. October 1864 angegebenen financiellen Verhältnisse zwischen dem Königreich Dänemark einerseits und den Herzogthümern Schleswig-Holstein und Lauenburg andererseits zu treffen, nämlich: etc. etc. ¶ haben zur Erfüllung des ihnen gewordenen Auftrages folgende Bestimmungen und Festsetzungen vereinbart und auf Grund der ihnen ertheilten speciellen Ermächtigung ihrer resp. hohen Regierungen das gegenwärtige Schlussprotokoll endgültig vollzogen.

A. Die Auslieferung der im Artikel XIV des Friedensvertrags erwähnten Fonds etc. betreffend.

Art. 1. In Gemässheit des Artikels XIV des Friedensvertrages sind an Cautionen, Depositen, Legaten und sonstigen Fonds die in den beiliegenden Verzeichnissen (Anl. 1, 2 u. 3) aufgeführten Documente, Werthpapiere und Gelder nach Ausweis der abschriftlich beiliegenden Commissionsverhandlungen v. 5. Sept. v. J., 2. Dec. v. J. u. 27. März d. J. von der Dänischen Regierung an die Regierung der Herzogthümer übergeben worden. ¶ Soweit eine solche Uebergabe nicht stattgefunden hat, sei es weil ein darauf gerichteter Antrag noch nicht gestellt, oder weil die Gewährung desselben beanstandet worden ist, bleibt den betheiligten Privaten, Gemeinden, öffentlichen Anstalten und Corporationen die Verfolgung ihres Rechtsanspruches vorbehalten. ¶ Die Bestände der allgemeinen Brandcasse der Städte in den Herzogthümern Schleswig und Holstein, des Pensionsfonds für das Personal des Schleswig-Holsteinischen Brandversicherungscomptoirs, des Pensionsfonds für abgehende Branddirectoren und des Fonds zum Bau von Gefängnissen sind richtig und vollständig ausgeliefert und können mit Beziehung auf dieselben von der Regierung der Herzogthümer keine weitere Ansprüche gegen die Dänische Regierung erhoben werden.

Art. 2. Für die Auslieferung der bei der Dänischen Regierung deponirten Beamten-Cautionen sind folgende Grundsätze als massgebend festgestellt worden: ¶ Die Cautionen derjenigen Beamten, welche im Dienste der Herzogthümer geblieben sind, werden an die Regierung der Herzogthümer unverzüglich ausgeliefert. Sofern jedoch die Caution von einem Andern als dem Beamten selbst gestellt worden ist, ist die Einwilligung des Eigenthümers erforderlich. Die Regierung der Herzogthümer fertigt Depositenscheine aus, die an die Personen, welche die Cautionen geleistet haben, ausgeliefert werden, gegen

No. 2234. Oesterreich, Preussen und Dänemark, 17. April 1866.

Rückgabe der von der Dänischen Regierung seiner Zeit ausgefertigten Depositenscheine, welche von der Regierung der Herzogthümer der Dänischen Regierung zugestellt werden. ¶ Die Cautionen derjenigen Beamten, welche ihres Dienstes in den Herzogthümern entlassen sind, werden nicht an die Regierung der Herzogthümer, sondern unmittelbar an die Personen, welche die Cautionen gestellt haben, ausgeliefert und zwar unverzüglich, sofern nicht die Dänische Regierung und die Regierung der Herzogthümer darüber einverstanden sind, dass eine oder die andere dieser Cautionen zur Deckung etwaniger Defecte ganz oder theilweise zurückzubehalten sind. ¶ Die vorstehenden Grundsätze werden auch bei der Auslieferung der noch rückständigen Cautionen in Anwendung gebracht werden. Die von dem Zuckerraffinadeur Charles de Voss & Co. in Itzehoe für gewährten Zollcredit deponirten Cautions-Effecten werden an die Regierung der Herzogthümer unverweilt ausgeliefert, welche dagegen 63 Procent des sich bei Verfolgung der betreffenden Forderung wegen des Zollrückstandes ergebenden Ertrages an die Dänische Regierung abgeben wird. ¶ Die Zinsen der Cautionen, welche aus den Cassen der Herzogthümer auf die von der Dänischen Regierung ausgestellten Schuldverschreibungen gezahlt sind oder demnächst noch gezahlt werden, werden bei der nach Artikel X des Friedensvertrags vorzunehmenden Liquidation von der Dänischen Regierung in Aufrechnung genommen werden. In denjenigen Fällen, in welchen die Caution baar eingezahlt ist, wird bei Einlösung der betreffenden Schuldverschreibungen der Betrag baar, und zwar wo dies ausdrücklich bedungen ist, in Speciesthalern zurückgezahlt werden.

Art. 3. Insofern sich unter den deponirt gewesenen Obligationen solche befinden, welche von der Dänischen Finanzverwaltung zur Umtauschung einberufen sind, soll deren Eigenthümern aus der nicht geschehenen Einsendung an das Finanzministerium weder in Bezug auf die nachträgliche Umtauschung noch auf die Zinszahlung irgend ein Nachtheil erwachsen. ¶ Mehrere der deponirt gewesenen Werthpapiere enthalten die Bemerkung, dass ohne Genehmigung der betreffenden Dänischen Ministerien oder anderer Behörden über sie nicht disponirt werden dürfe. Die Ertheilung der vorbehaltenen Genehmigung steht fortan der Regierung in allen Fällen zu, in denen dieselbe in Gemässheit des Friedensvertrags an die Stelle der Dänischen Ministerien oder Behörden getreten ist. ¶ Das Dänische Staatsschuldencomptoir wird dies bei allen vorfallenden Notirungen, Umtauschungen und Zurückziehungen aus den Einschreibebüchern genau beachten, und die betreffenden Behörden der Herzogthümer werden die bezüglichen Obligationen mit der Bemerkung versehen, dass künftig zur Disposition über dieselben ihre Genehmigung anstatt der früher nothwendigen Genehmigung der betreffenden Dänischen Behörde erforderlich sei. Eine Ausnahme von diesem Verfahren findet hinsichtlich der Einschreibescheine statt. Diese dürfen nur von dem Dänischen Finanzministerium mit Bemerkungen versehen werden, letzteres aber wird, wenn ihm unter Einsendung der Einschreibescheine von der Regierung der Herzogthümer mitgetheilt wird, welche Bestimmungen hinsichtlich der Oberaufsicht oder Oberverwaltung künftig Geltung haben sollen, sowohl die Einschreibebücher als die Einschreibescheine mit einer entsprechenden Bemerkung versehen.

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Art. 4. Die von den vormaligen Ministerien für das Herzogthum Schleswig und für die Herzogthümer Holstein und Lauenburg verwaltete Hälfte der Schütz-Grönlandschen Fonds für bedürftige Beamten-Wittwen und Kinder wird die Dänische Regierung den Herzogthümern unverweilt ausliefern. In Betreff des Stistrupschen Legats zur Austheilung von Bibeln ist die Dänische Regierung verpflichtet, der Regierung des Herzogthums Schleswig am 1. Juni jeden Jahres ein Siebentel der für Rechnung des Legats eingekauften Bibeln und andern Bücher behufs Austheilung in den Dänisch redenden Districten des Herzogthums Schleswig zuzustellen. ¶ Namens der Herzogthümer wird dem Anspruche auf Herausgabe des Capitalwerthes der in dem angeschlossenen Verzeichnisse 4 genannten Renten an Kirchen und Schulen etc. gegen Gewährung einer Abfindungssumme von 60,000 Rthlr., welche auf die nach Art. 11 von den Herzogthümern an Dänemark zu zahlende Pauschsumme verrechnet wird, hierdurch entsagt.

Art. 5. Auf den am 2. Decbr. v. J. übergebenen Fonds der Schleswig-Holsteinischen Lootsenpensionscassen und auf den Antheilen der Herzogthümer an den Schütz-Grönlandschen Fonds lasten die in den angeschlossenen Verzeichnissen (Anl. 5 und 6) aufgeführten Pensionen und Unterstützungen, welche fernerweitig aus denselben zu entrichten sind.

Art. 6. Auf den Pensionsfonds für das Personal des vormaligen Schleswig-Holsteinischen Brandversicherungs-Comptoirs und für abgehende Branddirectoren lasten die in der Anlage (7) verzeichneten Pensionen, für deren fernere Zahlung vom 1. April 1866 ab die Regierung der Herzogthümer Sorge tragen wird. ¶ Die Gebäudebesitzer der früher zum Herzogthum Schleswig, jetzt zum Königreich Dänemark gehörigen Stadt Arroeskjöbing haben nach Verhältniss der Brandversicherungssumme ihrer Gebäude zu der der Gebäude aller übrigen Interessenten der städtischen Brandcasse der Herzogthümer Schleswig und Holstein Antheil an den Fonds der städtischen Brandcasse. Sie haben ferner Anspruch darauf, aus dieser Brandcasse für die bis zum 30. Oct. 1864 an ihren Gebäuden vorgekommenen Brandschäden den reglementsmässigen Ersatz zu erhalten. Dagegen sind sie verpflichtet, für den Zeitraum vom 1. Juli 1863 bis ult. 1864 die ausgeschriebenen Brandcassenbeiträge mit einem viertel Procent der Hauptversicherungssumme ihrer Gebäude und für den Zeitraum vom 1. Juli bis 30. October 1864 die annoch festzustellenden Brandcassenbeiträge zu entrichten. Die betreffenden Behörden des Königreichs und der Herzogthümer werden sich über die Höhe dieser Beträge verständigen und dafür sorgen, dass der sich ergebende Saldo demnächst unverzüglich durch Baarzahlung ausgeglichen wird. Mit dem 30. October 1864 scheidet die Stadt Arroeskjöbing aus jeder Gemeinschaft mit der städtischen Brandcasse der Herzogthümer Schleswig und Holstein aus. ¶ Die früher zum Herzogthum Schleswig gehörigen, durch den Friedensvertrag dem Königreich Dänemark einverleibten Landdistricte scheiden aus der Gemeinschaft, in welcher sie hinsichtlich des Immobiliar-Brandversicherungswesens mit den übrigen Landdistricten der Herzogthümer Schleswig-Holstein gestanden hätten, mit dem 30. September 1864 aus. Bis zu diesem Zeitpunkte haben sie die reglementsmässigen Beiträge zu dem Brandversiche-

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rungswesen der Schleswig-Holsteinischen Landdistricte zu leisten und von demselben den reglementsmässigen Ersatz der vorgekommenen Brandschäden zu erhalten. Ueber die desfallsigen näheren Festsetzungen werden sich die betreffenden Behörden des Königreichs und der Herzogthümer verständigen.

Art. 7. Das zur Tilgung der Holsteinischen Cassenscheine bestimmte Depositum beträgt 308,276 Rthlr. $53^3/_4$ Sch. und ist inbegriffen in den Cassenbehalten, welche aus den Specialeinnahmen der Herzogthümer herrührend, zur Zeit der Execution beziehungsweise der Occupation in ihren öffentlichen Cassen sich befanden. Der Gesammtbetrag dieser Cassenbehalte mit Einschluss des Cassenschein-Amortisationsfonds und nach Abzug der der Specialverwaltung der Herzogthümer obliegenden Kosten ist in runder Summe auf eine Million Rthlr. festgesetzt worden.

B. Die Vertheilung der Pensionslast und der Ausgaben für die Pensionirung der Militär-Unterclassen.

Art. 8. Von den früheren besonderen Pensionen des Königreichs und der Herzogthümer werden die in dem angeschlossenen Verzeichnisse A (Anl. 8) zum Jahresbetrage von 164,346 Rthlr. 69 Sch. aufgeführten Pensionen von dem Königreiche und die in dem angeschlossenen Verzeichnisse C (Anl. 9) zum Jahresbetrage von 56,467 Rthlr. 84 Sch. aufgeführten Pensionen von den Herzogthümern fortentrichtet. Von den übrigen Pensionen werden diejenigen, welche in dem angeschlossenen Verzeichnisse B (Anl. 10) zum Jahresbetrage von 1,471,968 Rthlr. 31 Sch. aufgeführt sind, vom Königreiche, und diejenigen, welche in dem angeschlossenen Verzeichnisse D (Anl. 11) zum Jahresbetrage von 208,962 Rthlr. 46 Sch. aufgeführt sind, von den Herzogthümern zur Zahlung vom 1. April 1865 ab übernommen.

Art. 9. Von den Pensionen an Personen der Militär-Classen übernehmen die Herzogthümer vom 1. April 1865 an die in dem angeschlossenen Verzeichnisse (Anl. 12) aufgeführten Pensionen im Betrage von 28,467 Rthlr. 13 Sch., sämmtliche übrige Pensionen der Militär-Unterclassen werden von dem Königreiche gezahlt. ¶ Das Christianspflegehaus in Eckernförde fällt der Regierung der Herzogthümer anheim: die übrigen Activen des allgemeinen Invalidenfonds etc. verbleiben dem Königreich.

Art. 10. Die eventuellen Pensionen an Hinterlassene pensionirter Beamten werden von dem Lande abgehalten, welches die Pensionen der Männer übernommen hat.

Art. 11. Für die von dem Königreiche nach den Artikeln 8, 9, und 10 im Verhältniss zur Volkszahl übernommene Mehrlast an jährlichen Pensionszahlungen, erhält dasselbe von den Herzogthümern eine Pauschalsumme von 4,800,000 Rthlr. Hiermit werden zugleich alle und jede gegenseitigen Ansprüche auf Vergütung für Pensionszahlungen, welche vor dem 1. April 1865 geleistet sind, wegfällig.

Von der Pauschalsumme . . . . 4,800,000 Rthlr.
wird zunächst in Abzug gebracht:

1) der in Artikel 7 festgestellte Betrag der Cassenbehalte der Herzogthümer mit . . 1,000,000 Rthlr.
2) die im Art. 4 erwähnten Entschädigungen mit . . . . 60,000 „

	1,060,000 „
Der Rest von	3,740,000 Rthlr.

wird vom 1. April 1865 ab mit 4 pCt. verzinst und in folgender Weise getilgt:

Die Zinsen vom 1. April 1865 bis 1. April 1866 betragen	149,600 „
	3,889,600 Rthlr.
Längstens 6 Wochen nach Unterzeichnung des vorliegenden Schlussprotokolles werden abgetragen	1,500,000 „
und ausserdem die Zinsen von 1,500,000 Rthlr. zu 4 pCt. vom 1. April 1866 bis zum Zahlungstage.	
Die Zinsen vom 1. April 1866 bis 31. März 1867 . . .	95,584 „
	2,485,184 Rthlr.
Am 1. April 1867 abzutragen	500,000 „
	1,985,184 Rthlr.
Die Zinsen vom 1. April 1867 bis 30. September 1867 .	39,704 „
	2,024,888 Rthlr.
Am 1. October 1867 abzutragen	500,000 „
	1,524,888 Rthlr.
Die Zinsen vom 1. October 1867 bis 31. März 1868 . .	30,497 „
	1,555,385 Rthlr.
Am 1. April 1868 abzutragen	500,000 „
	1,055,385 Rthlr.
Die Zinsen vom 1. April 1868 bis 30. September 1868 .	21,108 „
	1,076,493 Rthlr.
Am 1. October 1868 abzutragen	500,000 „
	576,493 Rthlr.
Die Zinsen vom 1. October 1868 bis 31. März 1869 . .	11,530 „
	588,023 Rthlr.
Am 1. April 1869 abzutragen	588,023 „

Die Zahlung der vorgenannten Beträge findet bei der Finanz-Hauptcasse in Kopenhagen statt.

Art. 12. Die im zweiten Alinea des Artikels 8 und die im Artikel 9 erwähnten Pensionen dürfen nach Massgabe der Bestimmungen resp. des Pensionsgesetzes vom 24. Februar 1858 und des Gesetzes vom 9. April 1851 eingezogen oder herabgesetzt werden, ohne dass das eine Land hierdurch einen Anspruch auf Vergütung von dem andern Lande erhält, doch soll es der Zustimmung der die Pension zahlenden Regierung nicht bedürfen, wenn Pensionisten der ebengedachten Art, welche vom Königreiche ihre Pension beziehen, in den Herzogthümern wieder angestellt werden oder umgekehrt. Auch ist im Falle

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einer solchen Wiederanstellung die festgesetzte Pension fortzuzahlen und bleibt es der Uebereinkunft der wieder anstellenden Regierung und des Pensions-Empfängers überlassen, inwieweit die Pension auf das neue Diensteinkommen in Anrechnung zu bringen oder sonst bei den Anstellungsbedingungen in Betracht zu ziehen ist.

Art. 13. Die Regierung der Herzogthümer wird für Rechnung der Dänischen Regierung die dem Vorstehenden zufolge dem Königreiche zur Last fallenden Pensionen an Personen, welche ihren Aufenthalt in den Herzogthümern nehmen, bei der Hauptcasse und den Amtstuben der Herzogthümer zahlen lassen, wenn die Dänische Regierung darauf anträgt. Ebenso wird die Dänische Regierung auf Antrag der Regierung der Herzogthümer für Rechnung derselben die dem Vorstehenden zufolge den Herzogthümern zur Last fallenden Pensionen an Personen, welche ihren Aufenthalt in dem Königreiche nehmen, bei der Finanz-Hauptcasse und den Amtstuben des Königreichs zahlen lassen. Ueber die ausgezahlten Summen ist ein Verzeichniss binnen 14 Tagen nach Ablauf jeden Quartals den resp. Regierungen einzuhändigen, und diejenige Regierung, welche hiernach der andern eine Summe schuldig bleibt, wird vor Ablauf der nächsten 4 Wochen der andern Regierung den Betrag zustellen. Eventuelle Berichtigungen werden bei der Liquidation für das nächste Quartal erledigt.

C. Die Apanagen, die allgemeine Wittwencasse und die Leibrenten- und Versorgungsanstalt von 1848, sowie die Lebensversicherungsanstalt in Kopenhagen betreffend.

Art. 14. Die im Art. XVI des Friedensvertrags genannten fürstlichen Personen beziehen folgende Apanagen:

Ihre Majestät die Königin Wittwe Caroline Amalie . . .	120,000	Rthlr.
Ihre Königliche Hoheit die Erbprinzessin Caroline	42,000	„
Ihre Königliche Hoheit die Herzogin Wilhelmine Marie von Glücksburg	54,000	„
Ihre Hoheit die Herzogin Caroline Marianne Charlotte von Mecklenburg-Strelitz	16,000	„
Ihre Hoheit die Herzogin Wittwe Louise Caroline von Glücksburg	5,060	„
Se. Hoheit Prinz Friedrich von Hessen	1,600	„
Ihre Durchlauchten die Prinzessinnen Charlotte, Victoria und Amalie von Schleswig-Holstein-Sonderburg-Augustenburg	1,200	„

Von diesen Apanagen sind 63 pCt. vom Königreiche und 37 pCt. von den Herzogthümern vom 30. October 1864 angerechnet abzuhalten. ¶ Eine Vergütung wegen der für die Zeit bis zum 30. October 1864 gezahlten Apanagen ist weder von den Herzogthümern an das Königreich noch von diesen an jene zu leisten. ¶ Ebenso zahlen das Königreich 63 pCt. und die Herzogthümer 37 pCt. des Staatszuschusses, welcher zur Deckung der jährlichen Unterbilanz der allgemeinen Wittwencasse erforderlich ist.

Art. 15. Die Apanagen und Wittwenpensionen von Personen, welche in den Herzogthümern wohnhaft sind, werden auf Antrag der Dänischen Regierung von der Regierung der Herzogthümer bei den Central-Cassen und Amtstuben in den Herzogthümern ausbezahlt werden. Ueber die solcherweise gezahlten Beträge hat die Regierung der Herzogthümer binnen 14 Tagen nach Ablauf eines jeden Quartals ein Verzeichniss an die Dänische Regierung abzugeben, welche vor Ablauf der nächsten 14 Tage ein Verzeichniss der im Laufe des Quartals ihrerseits gezahlten Apanagen und Zuschüsse an die allgemeine Wittwencasse der Regierung der Herzogthümer mitzutheilen hat. Zugleich ist von derselben eine Vertheilung der ganzen von beiden Regierungen ausgegebenen Summen nach der Verhältnisszahl 63 : 37 und eine Auseinandersetzung darüber mitzutheilen, wie viel die eine Regierung der andern schuldig geblieben ist. Dieser Betrag ist vor Ablauf der darauf folgenden 14 Tage, wenn die Dänische Regierung in Vorschuss steht, bei der Finanz-Hauptcasse in Kopenhagen, und wenn die Regierung der Herzogthümer in Vorschuss steht, bei deren Hauptcasse einzuzahlen. Eventuelle Berichtigungen werden bei der Liquidation für das nächste Quartal erledigt. ¶ Binnen 2 Monaten, nachdem dieses Protokoll unterschrieben worden, hat die Dänische Regierung der Regierung der Herzogthümer eine Mittheilung darüber zu machen, welche Summe die Dänische Staatscasse bis Ende des Finanzjahres 1865/66 zur Deckung der Unterbilanz der Wittwencasse hat auskehren müssen. Desgleichen hat sie mitzutheilen, welche Beträge sie nach dem 30. October 1864 von den obengenannten Apanagen ausbezahlt hat. ¶ Innerhalb derselben Frist hat die Regierung der Herzogthümer der Dänischen Regierung davon Nachricht zu geben, welche Beträge sie für Rechnung der Wittwencasse, ohne dass dieselbe saldirt worden, gezahlt und welche Beträge sie nach dem 30. October 1864 von den obengenannten Apanagen ausbezahlt hat. Die Dänische Regierung berechnet darauf nach dem Verhältniss 63 : 37, wie viel die eine Regierung der andern schuldig ist, und dieser Betrag ist dann vor Ablauf der darauf folgenden 14 Tage, wenn die Dänische Regierung zu fordern hat, bei der Finanz-Hauptcasse in Kopenhagen, und wenn die Regierung der Herzogthümer etwas zu fordern hat, bei deren Hauptcasse zu erlegen.

Art. 16. Das Verhältniss der Lebensversicherungsanstalt in Kopenhagen und der Leibrenten- und Versorgungsanstalt von 1842 zu den Interessenten in den Herzogthümern betreffend, werden folgende Normen massgebend: ¶ a) die Auszahlung der Lebensversicherungsanstalt findet nur in Kopenhagen statt; die Einzahlungen können an die von der Direction angestellten Agenten, so lange solche vorhanden sind, geschehen; ¶ b) die Auszahlungen der Leibrenten- und Versorgungsanstalt an Interessenten in den Herzogthümern werden von den Central-Cassen und Amtstuben in den Herzogthümern nach Anweisungen beschafft, welche wenigstens 8 Tage früher, als die Auszahlungen geschehen sollen, von der Dänischen Regierung der Regierung der Herzogthümer zuzustellen sind. Die Regierung der Herzogthümer liefert binnen 14 Tagen nach Ablauf eines jeden Quartals der Dänischen Regierung ein Verzeichniss der für Rechnung der Leibrenten- und Versorgungsanstalt im verflossenen Quartale abgehaltenen Aus-

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gaben, welche dann in dem Betrage in Abzug zu bringen sind, den die Herzogthümer als Beitrag zu den in demselben Quartal gezahlten Wittwencasse-Zuschüssen zu erlegen haben. ¶ Die Einzahlungen an die Leibrenten- und Versorgungsanstalt müssen im Allgemeinen direct an die Casse der Anstalt geschehen, rücksichtlich derjenigen von der Anstalt ausgestellten Policen aber, in Bezug auf welche die Regierung der Herzogthümer die Erklärung abgiebt, dass sie für die rechtzeitige Zahlung der Prämien einsteht, hat die Anstalt diese Prämien, als zur Verfallzeit eingegangen, anzusehen. Die in jedem Quartal fällig gewesenen Prämien werden von der Regierung der Herzogthümer zugleich mit dem Beitrage der Herzogthümer zu den im Laufe des Quartals ausbezahlten Wittwencasse-Zuschüssen an die Dänische Regierung abgegeben. ¶ Wenn die Leibrenten- und Versorgungsanstalt von 1842 oder die Lebensversicherungsanstalt in Kopenhagen je ausser Stande werden sollten, ihre planmässigen Verpflichtungen der vor dem 31. October 1864 in die Anstalten eingetretenen Interessenten in den Herzogthümern gegenüber nachzukommen, wird es Pflicht der Staatscasse des Königreichs, als Garantie der Anstalten, das Fehlende zuzuschiessen.

D.

Art. 17. Die in Folge dieser Uebereinkunft von den Herzogthümern an das Königreich oder umgekehrt zu leistenden Zahlungen geschehen in Dänischer Reichsthalermünze oder in Hamburger Banco 2 Reichsthaler Dänisch gleich 3 Mark Banco. ¶ Urkund dessen unsere eigenhändigen Unterschriften und beigedruckten Siegel.

Kopenhagen, den 17. April 1866.

von Lackenbacher.	*Meinecke.*	*Fenger.*	*Schovelin.*
(L. S.)	(L. S.)	(L. S.)	(L. S.)

No. 2235.

SCHLESWIG-HOLSTEIN (AUGUSTENBURG). — Geheimerath Samwer an den Grossh. Badischen Bundestagsgesandten in Frankfurt a. M. — Das innere Familienrecht des Herzogl. Schleswig-Holstein-Augustenburgischen Hauses und die Erklärung des Herzogs Christian August d. d. 30. Dec. 1850 betr. (Staatsarchiv No. 1026.) —

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Hochgeehrtester Herr Minister! — Es ist bekannt, dass die gegenwärtige Verwaltung des Herzogthums Schleswig sich bemüht, dem einheimischen Fürstenhause, dessen Rechte von der Königlich Preussischen Regierung vor Europa und bald darauf in der Deutschen Bundesversammlung anerkannt worden sind, die Anhänglichkeit und Loyalität der Schleswiger zu entziehen. Neuerdings ist dieselbe dazu übergegangen, selbst das innere Familienrecht dieses Hauses anzugreifen, den Charakter eines Durchlauchtigsten Mitgliedes desselben zu verdächtigen. ¶ Ew. Excellenz ist es bekannt, dass in einem Erlasse jener Verwaltung Sr. Hoheit, meinem gnädigsten Herrn, die Berechtigung zur Führung

des Herzogstitels abgesprochen wird. ¶ Insofern hiermit auf die grosse noch schwebende politische Frage, wer der rechtmässige Souverain der Herzogthümer sei, Bezug genommen, insofern also daran erinnert werden sollte, dass das Recht Sr. Hoheit noch nicht thatsächlich durchgeführt sei, kann ich die Sache an dieser Stelle auf sich beruhen lassen. ¶ Allein die Schleswig'sche Verwaltung will, auch abgesehen von der Souverainetätsfrage, Sr. Hoheit das Recht, den Herzogstitel zu führen, bestreiten, weil dieser Titel in den Schleswig-Holsteinischen Fürstenhäusern nur dem Haupt der Familie zukomme und weil als solches der Vater Sr. Hoheit, der Herzog Christian August, zu betrachten sei. ¶ Es bedarf für Solche, welche einige Kunde der Schleswig-Holsteinischen Verhältnisse besitzen, kaum der Erinnerung, dass sämmtliche Mitglieder des Oldenburgischen Hauses „Herzoge zu Schleswig-Holstein" sind, wie denn die Lehnbriefe der Deutschen Kaiser und Dänischen Könige alle Prinzen des Holsteinischen Hauses stets als „Herzoge zu Schleswig" und „Herzoge zu Holstein" bezeichnet haben. ¶ Ebensowenig kann aber in Zweifel gezogen werden, wer in der Augustenburgischen Linie des Schleswig-Holsteinischen Hauses als „Haupt der Familie" zu betrachten sei. Innerhalb dieser Linie und unter den Betheiligten besteht wenigstens kein Zweifel darüber, dass der Herzog Christian August, indem er im November und December 1863 auf seine Erbfolgerechte zu Gunsten seines ältesten Sohnes verzichtete, damit zugleich auf diesen die Stellung eines Chefs des Hauses übertrug, und es hat derselbe noch neuerdings durch eine besondere Acte jeden Zweifel hierüber beseitigt. ¶ Es ist möglich, dass jene von der Schleswig'schen Verwaltung vorgebrachten Belehrungen über das Familienrecht des Schleswig-Holsteinischen Fürstenhauses ausserhalb des Landes hier und da Glauben finden. Ich habe deshalb nicht unterlassen wollen, Ew. Excellenz durch die vorstehende kurze Notiz in den Stand zu setzen, etwaigen irrigen Ansichten, welche Sie bei Ihren Herren Collegen finden möchten, zu begegnen. ¶ Wenn sich jener Irrthum der Schleswig'schen Verwaltung durch eine auch in anderer Beziehung oft zu Tage tretende Unbekanntschaft mit den Schleswig-Holsteinischen Verhältnissen entschuldigen lässt, so ist dies nicht in gleichem Masse mit der erwähnten Verdächtigung der Fall. Der Freiherr v. Zedlitz spricht in dem erwähnten Erlasse von dem „bekannten, mit einer Geldentschädigung Seitens der Krone Dänemark verbundenen Verzicht des Herzogs Christian August auf die Thronerbfolge." Es wird hier, wenn auch nicht mit ausdrücklichen Worten, so doch durch Insinuation nicht undeutlich ausgesprochen, nicht allein, dass S. Durchlaucht der Herzog Christian August durch die bei Gelegenheit des Verkaufs seiner Güter an die Dänische Regierung abgegebene Erklärung vom 30. December 1852 auf sein Thronfolgerecht verzichtet, sondern auch ein Geldäquivalent für diesen Verzicht sich habe geben lassen. Eine ähnliche, von Dänischen Parteischriftstellern aufgestellte Behauptung ist von der Deutschen Wissenschaft einstimmig zurückgewiesen. Es wird schon durch einen Blick auf die Acte vom 30. December 1852 die ganze Frivolität jener Behauptung klar. Die Dänische Regierung hat vor 1863 niemals gewagt, Aehnliches auszusprechen, ja sie hat das gerade Entgegengesetzte öffentlich erklären lassen. Unter solchen Umständen, und zumal da das aus der Mitte der Bundesversammlung hervorge-

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gangene Votum des Königlich Bayerischen Bundestagsgesandten die Abgeschmacktheit jener Behauptung klar dargelegt hat, könnte es als überflüssig erscheinen, auf dieselbe noch zurückzukommen. Indessen S. Durchlaucht der Herzog Christian August hat sich veranlasst gefunden, gegenüber dieser an die Schleswig'schen Polizeibehörden gerichteten Insinuation in der anliegenden Denkschrift die wahre Bedeutung der Transaction von 1852 zu erörtern. Ich habe Ew. Excellenz auf Befehl Sr. Hoheit, meines gnädigsten Herrn, ergebenst zu ersuchen, das beiliegende, diese Denkschrift einschliessende, Schreiben an S. Excellenz den K. K. Herrn Präsidialgesandten übergeben zu wollen und benutze auch diesen Anlass zur erneuerten Versicherung meiner ausgezeichneten Hochachtung.

Kiel, den 3. Januar 1866.

K. Samwer.

Sr. Exc. dem Grossh. Bad. Bundestags-Gesandten Herrn Freiherrn von Mohl.
Frankfurt a. M.

Anlage. — Denkschrift über den Verkauf der Augustenburgischen Fideicommissgüter vom Jahre 1852.

Im Jahre 1846 machte die Dänische Regierung den Versuch, den Herzog Christian August von Augustenburg seines Erbfolgerechts zu berauben und in den Herzogthümern die Dänische Erbfolge einzuführen. Der Deutsche Bund sprach sich in seinem Beschlusse vom 17. September 1846 gegen dieses Vorhaben aus und wahrte die Rechte erbberechtigter Agnaten. ¶ Im März 1848 ging die Dänische Regierung dennoch zur Incorporation Schleswigs über. Der Deutsche Bund suchte die Herzogthümer mit den Waffen zu schützen; der Herzog, der gehofft hatte, jenen Schritt der Dänischen Regierung durch die drohende Intervention der Macht Preussens zu verhindern, stellte sich, wie alle Prinzen der jüngeren Königl. Linie mit Ausnahme eines einzigen, auf die Seite des Deutschen Bundes. Am Schlusse des Kriegs war das gesammte Privateigenthum des Herzogs in Dänischen Händen. Nach den damaligen Verhältnissen war Deutschland nicht in der Lage, sei es den Herzogthümern ihr zerbrochenes Recht, sei es dem Herzoge sein ihm geraubtes Privateigenthum zurückzugeben. Der König von Preussen, welcher durch ein bekanntes Schreiben sowohl den Herzog, als die Herzogthümer in seinen Schutz genommen hatte, bemühte sich deshalb vergebens. Europa, damals Hand in Hand mit der Dänischen Regierung, wollte die Integrität der Dänischen Monarchie. Das Mittel, dessen Dänemark sich zu seinem Zwecke bediente, war die Androhung der Confiscation des Privateigenthums des Herzogs. Es fehlte dazu jeder Rechtstitel. Die Confiscation ist nach den Gesetzen der Herzogthümer unmöglich, die Güter waren fideicommissarisches Allod. Die Confiscation war eine Massregel der nackten Gewalt, welche nur durch die Natur der Dänischen Herrschaft in Schleswig ausführbar wurde. ¶ Man begann damit, den Herzog durch die Vermittelung Preussens aufzufordern, sich bereit zu erklären, auf sein und seiner Nachkommen Erb-

folgerecht gegen ein Aequivalent zu verzichten. Domainen sollten das Aequivalent bilden. Der Herzog lehnte es ab, seine Bereitwilligkeit zu einem Verzicht auf sein Erbrecht zu erklären. Anträge auf einen Erbverzicht wollte aber Dänemark seiner Seits nicht stellen, theils weil es eine Ablehnung seiner Forderung und das in diesem Falle aus der Antragstellung entstehende Präjudiz fürchtete, theils weil es schon durch eine Beseitigung der persönlichen Thätigkeit des Herzogs für sein Erbfolgerecht zum Ziele zu gelangen erwartete. ¶ In dem Warschauer Protokoll vom 5. Juni 1851*) hatte Dänemark auf Anforderung Russlands versprochen, einen Verzicht der Augustenburgischen Linie gegen Entschädigung in Aussicht zu nehmen. Es fand nunmehr diesen Verzicht nicht nothwendig und suchte, auf einem anderen und opferlosen Wege die beabsichtigte Erbfolgeänderung sicher zu stellen. Indem sie die Macht des Rechts unterschätzte und den persönlichen Einfluss des Herzogs überschätzte, verlangte die Dänische Regierung vom Herzoge nunmehr nur, dass er

1. seine Güter an den König von Dänemark abtrete und

2. seinen Aufenthalt ausserhalb der Dänischen Monarchie zu nehmen, innerhalb der Dänischen Monarchie kein Grundeigenthum zu erwerben, sowie den Beschlüssen des Königs über die Ordnung der Erbfolge nicht entgegentreten zu wollen, für sich und seine Familie verspreche.

Der König von Preussen erklärte dem Herzog, ihn gegen diese Forderungen „für jetzt" nicht schützen zu können. ¶ Unter dem Drucke der Androhung der Confiscation, jedes rechtlichen und politischen Schutzes selbst in Rücksicht auf sein Privateigenthum beraubt, ging der Herzog jene Verpflichtungen im Vertrage vom 30. Dec. 1852 ein.

Zur richtigen Würdigung dieses Vertrags kommen folgende Sätze in Betracht:

1. Die in demselben für den Herzog von Augustenburg stipulirte Geldsumme ist lediglich Kaufpreis für Güter. ¶ Der Vertrag trennt ausdrücklich die Abtretung der Privatgüter von den übrigen Verpflichtungen, derselbe bezeichnet ebenso bestimmt die in demselben stipulirte Geldsumme einzig und allein als „Widerlage für die mehrerwähnten — abgetretenen Güter und Besitzungen." Es ist diese Widerlage nicht allein nicht höher als der Werth der Besitzungen damals war, sondern um etwa die Hälfte niedriger. Ersteres ist durch die Dänische Regierung selbst anerkannt worden, Letzteres ergeben die vorher Herzoglicher Seits aufgestellten Taxationen, sowie die Resultate, welche der später vorgenommene Verkauf des grösseren Theils der Güter an Private gehabt hat. ¶ Dass es sich nicht um Abfindung von Erbrecht oder um Geldentschädigung für einen Erbverzicht, sondern um einen Güterankauf Seitens der Dänischen Regierung handelte, hat dieselbe durch den Premierminister Bluhme dem Dänischen Reichstage am 21. März 1853 in einer unten wörtlich anzuführenden Erklärung ausdrücklich aussprechen lassen. Es ist eine unwürdige Entstellung der Wahrheit, gegenüber den übereinstimmenden Erklärungen der zur authentischen Interpretation ihrer Willensmeinung allein be-

*) No. 1000.

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rufenen Contrahenten jene anderweitigen Auffassungen geltend zu machen, wie dies in späterer Zeit geschehen ist.

2. Die Erklärung des Herzogs über die Erbfolge ist kein Erbverzicht, sondern band den Aussteller nur, den künftigen Beschlüssen des Königs über die Erbfolge nicht entgegenzutreten. ¶ Der Wortlaut der Verpflichtung ist so gefasst, dass dieselbe auch von notorisch zur Erbfolge nicht Berechtigten ausgestellt werden konnte. Sie verpflichtet den Herzog zum persönlichen Ausscheiden aus dem Kampfe gegen Dänemark, wie Schweden im Jahre 1720 durch eine wörtlich gleiche Erklärung aus dem Kampfe gegen Dänemark um das Gottorfische Schleswig ausschied. Auch hierüber hat die Dänische Regierung sich den Reichstagen gegenüber ausgesprochen. „Das Wort, welches gebraucht ist,“ erklärte der Dänische Premierminister Bluhme in der Sitzung desselben vom 21. März 1853, „ist das Deutsche ‚entgegentreten‘, aber es ist das keine förmliche Renunciation,“ wozu dann noch bemerkt wird, „dass man eine Renunciation auf Etwas, wovon man nicht anerkannte, dass es im Besitze der Hauptlinie des Augustenburger Hauses sei, nicht habe verlangen wollen.“ Man wollte nicht einen Verzicht auf ein Erbrecht, welches man leugnete, sondern nur, dass der Herzog die damals beabsichtigte Erbfolgeänderung nicht bekämpfe.

3. Die Erklärung des Herzogs verpflichtete lediglich den Herzog und diejenigen Mitglieder seiner Familie, welche eine ähnliche Verpflichtung ausstellten. ¶ Der Herzog erklärte, seinerseits Nichts dagegen einzuwenden, wenn Mitglieder seiner Familie die gleiche Verpflichtung übernehmen würden, und hielt diese Möglichkeit durch die Clausel „für mich und meine Familie“ offen. Aber diese Verpflichtung konnte für Mitglieder seiner Familie erst durch ihren förmlichen Beitritt entstehen, ein solcher ist aber weder verlangt noch gegeben worden. Auch in dieser Hinsicht hat sich die Dänische Regierung durch den Premierminister Bluhme ausgesprochen, wie folgt:

„Da die Dänische Regierung es für zweckmässig und dienlich gefunden hat, dem Herzoge von Augustenburg die Besitzungen, die er auf Alsen und dem Schleswig'schen Festlande hatte, abzukaufen, so hat die Königl. Regierung es zugleich für nützlich gefunden, in die dazu gehörende Acte eine solche Verpflichtung für den Herzog und seine Familie einzuführen, die es für diejenigen, welche dieselbe ausgestellt, unmöglich machte, in Betreff des Ordnens der Erbfolge dem Königlichen Willen entgegenzutreten.“ ¶ Diese oder eine ähnliche Acte ist aber nur Seitens des Herzogs selbst ausgestellt worden. ¶ Der Herzog hat die Bedeutung der von ihm übernommenen Verpflichtungen reiflich erwogen und sich folgende Fragen vorgelegt:

1. Ob die übernommenen Verpflichtungen überhaupt gültig seien? ¶ Der Preis der Güter war um die Hälfte zu niedrig, das ganze Geschäft war Seitens der Dänischen Regierung durch eine widerrechtliche, für jeden Privatmann strafbare Drohung, welche die ganze bürgerliche Existenz des Herzogs in Frage stellte, erzwungen. Was speciell die Verpflichtung betraf, sein Erbrecht nicht thatsächlich geltend zu machen, so lag der Fall folgendermassen: Die Dänische Regierung versuchte zuerst im Jahre 1846, dem Herzog sein Erbrecht zu entziehen. Im Jahre 1852 erneuerte sie diesen Versuch und bemächtigte

sich ausserdem des Privateigenthums des Herzogs. Sie bemächtigte sich also zweier wohlerworbener Rechte, eines gegenwärtigen Besitzthums und eines eventuellen Rechts, und gab den einen widerrechtlich vorenthaltenen Gegenstand nur mit der Bedingung zurück, dass der Herzog seine Rechte auf den zweiten, nicht minder widerrechtlich angegriffenen Gegenstand nicht geltend mache. Weder Moral noch Gesetz erkennen ein solches Versprechen als gültig an. Der Herzog hat ungeachtet jenes masslosen Missbrauchs der Macht Seitens der Dänischen Regierung sein Wort gehalten.

2. Ob jenes Versprechen nach seinem Wortlaut und Sinn, oder so wie es etwa den jeweiligen wechselnden Bedürfnissen der Dänischen Regierung entsprechend erscheinen könnte, aufzufassen sei? ¶ Wie parteiisch man auch die Verhältnisse zwischen dem Herzoge und Dänemark betrachten möchte, Niemand wird behaupten, dass die Dänische Regierung gegen den Herzog Güte und Gerechtigkeit geübt hat, und dass der Herzog irgend eine Ursache hatte, eine ihm von der Dänischen Regierung wörtlich vorgeschriebene und einfach acceptirte Verpflichtung in einem weiteren Sinne zu interpretiren, als diese Regierung es im Jahre 1853 selbst that. Die Dänische Regierung wollte nach jener ausdrücklichen Erklärung des Dänischen Premierministers keinen Verzicht auf Erbrecht, weil sie dann die frühere Existenz eines Erbrechts anerkennen musste. Die Zumuthung, dass der Herzog seine Erklärung dennoch als Verzicht, und zwar als Verzicht zu Gunsten eines damals noch nicht einmal vorhandenen Dänischen Thronfolgers betrachten sollte, überschreitet sogar den Willen der Dänischen Regierung. Dieselbe glaubte sich im Jahre 1852 gesichert, wenn der Herzog gegen das Zustandekommen der beabsichtigten Erbfolgeordnung nicht protestirte, sie nicht bekämpfte, ihr nicht entgegentrat; sie wollte keinen Beitritt Anderer fordern, weil sie wusste, dass derselbe nicht erfolgen würde. ¶ Wenn die Dänische Regierung eine falsche Berechnung aufstellte, indem sie das persönliche Ausscheiden des Herzogs aus der Bekämpfung einer neuen Erbfolgeordnung einem Untergange aller entgegenstehenden Rechte gleichachtete, so freut sich der Herzog, dass das Recht wenigstens in diesem Falle über diese vermeintliche Klugheit, welche den Werth der momentanen Macht überschätzte, gesiegt hat, und der Herzog hat sich nicht veranlasst gefühlt, den Mängeln der ihm abgeforderten Erklärung über deren Wortlaut und Sinn hinaus abzuhelfen. ¶ Der Herzog hatte sein Erbrecht bewahrt, er hatte es Niemandem übertragen, es blieb ihm nur die Pflicht, auf dasselbe zu verzichten, und dieses hat er später gethan, aber freilich nicht zu Gunsten Dänemarks. Ein Verzicht zu Gunsten Dänemarks oder eines Anderen als seines nächsten Nachfolgers wäre schon an sich ungültig gewesen. ¶ Wenn Dänemark seine Absicht nicht erreicht hat, die Herzogthümer an sich zu fesseln, so liegt die Schuld einzig und allein an der unrichtigen Rechnung der Dänischen Regierung. Nicht der Herzog hat jenen Vertrag vom 30. Dec. 1852 vorgeschlagen und Dänemark zu einem Irrthum verleitet. Auch jetzt noch hat nur Dänemark aus jenem Geschäfte den Vortheil. Die Herzoglichen Güter hat es für einen so niedrigen Preis erhalten, dass allein für diese ein Gewinn von Einer Million Thalern dem Käufer verblieben ist.

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Was auch von Dänischer Seite gegen das Erbfolgerecht des Hauses Augustenburg vorgebracht worden ist, so ist man doch nie zu der Behauptung gelangt, dass von den Söhnen des Herzogs von Augustenburg irgend welche Verpflichtungen in Betreff der Erbfolge der Herzogthümer übernommen seien. Es ist dies Deductionen nicht-dänischen Ursprungs vorbehalten geblieben. Man hat gesagt, dass der Herzog Friedrich mit Beziehung auf die fideicommissarische Eigenschaft der Augustenburgischen Güter eine Erklärung ausgestellt habe, welche einen Verzicht auf das Staats-Erbfolgerecht in Schleswig-Holstein oder auch nur eine Zustimmung zu der in der Acte vom 30. December 1852 vom Herzog Christian August in Betreff dieser Staatserbfolge übernommenen Verpflichtung enthalte. ¶ Das Nachfolgende wird zur Aufklärung dieser Behauptung dienen: ¶ Nachdem der Herzog die Propositionen der Dänischen Regierung am 23. April 1852 bedingungslos angenommen hatte, wurde demselben der entsprechende Vertragsentwurf, sowie die vom Könige von Dänemark vollzogene Obligation über die Kaufsummen vorgelegt. In diesen Documenten fand sich die Clausel, dass „die Summe von 2,250,000 Rthlr. Preuss., hinsichtlich der fideicommissarischen Eigenschaft an die Stelle der vorgedachten Herzoglich Augustenburgischen Besitzungen auf Alsen und dem Festlande des Herzogthums Schleswig tritt.“ ¶ Allerdings beweist auch diese Clausel, dass die von der Dänischen Regierung geleistete Geldzahlung lediglich und allein für erkaufte Güter geleistet worden sei. Allein der Herzog widersprach dieser Clausel, weil dieselbe ein nicht stipulirtes Aufsichtsrecht der Dänischen Regierung über sein Vermögen begründet hätte und weil, wenn man sich auf einen rein privatrechtlichen Standpunkt stellen wollte, die Aufhebung des auf den Gütern haftenden fideicommissarischen Bandes vor dem vertragsmässig bereits feststehenden Kaufe hätte stattfinden müssen. ¶ Die Dänische Regierung beharrte auf ihrem Standpunkte. Sie betrachtete das verhandelte Rechtsgeschäft lediglich als die Umwandelung eines Güterfideicommisses in ein Geldfideicommiss. Zu einer solchen Umwandelung hielt sie sich auch ohne Consens der Agnaten berechtigt, indem sie jede agnatische Ansprache auf das unter ihrer Aufsicht verwaltete Capital verweisen konnte. Die Dänische Regierung erachtete also die Perfection des Kaufgeschäfts als gänzlich unabhängig von der Lösung des fideicommissarischen Bandes. Ja, sie verweigerte es geradezu, nicht nur die Aufhebung des Fideicommisses auszusprechen, sondern auch die darauf gerichteten Anträge entgegenzunehmen, bevor die Acte über den Verkauf der Güter von Seiten des Herzogs vollzogen sei. ¶ Bei diesem von der Dänischen Regierung festgehaltenen Standpunkte handelte es sich daher nicht darum, die vorgängige oder auch nur gleichzeitige Aufhebung des Augustenburgischen Güterfideicommisses durch agnatische Consense zu bewirken, damit der Verkauf dieser Güter nach Massgabe der Acte vom 30. December 1852 rechtsgültig bewirkt werden könne, vielmehr handelte es sich nur darum, nach Perfection jenes Vertrages das auf die Kaufsumme übertragene fideicommissarische Band aufzuheben, oder, in concreter Anwendung auf die vorliegenden Verhältnisse, die in der Hauptobligation über die Kaufsumme enthaltene fideicommissarische Clausel durch eine Zusatzacte zu entkräften. ¶ Um diese Zusatzacte zu

erwirken, verlangte die Dänische Regierung: ¶ 1. einen Antrag des Herzogs bei dem Könige von Dänemark um Aufhebung des Fideicommisses; ¶ 2. den Consens der zu dem fideicommissarischen Capitale Berechtigten, wenigstens der beiden Söhne des Herzogs, zu diesem Antrage. ¶ Der Herzog hatte schon früher dem Könige von Preussen die Absicht ausgesprochen, die vom fideicommissarischen Lande befreite Kaufsumme zu einer Fideicommissstiftung in den Preussischen Staaten verwenden zu wollen. Er weigerte sich indessen, Dänemark gegenüber eine neue Verpflichtung zu übernehmen, wodurch eine Ueberwachung der Verwendung des ihm schuldigen Capitals eingeräumt worden wäre. Dagegen erklärte sich der Herzog bereit, dem Könige von Preussen gegenüber eine Erklärung über die beabsichtigte Verwendung des Capitales abzugeben und den Consens seiner beiden Söhne zu derselben zu documentiren. ¶ Da die Dänische Regierung schliesslich diese Erklärungen für genügend zur Aufhebung des fideicommissarischen Nexus erachtete, so wurden am 31. December — einen Tag nach Vollzug der Vereinbarung zwischen Herzog Christian August und dem Könige von Dänemark — folgende Acten ausgestellt:

Erklärung des Herzogs: „Da S. M. der König von Preussen mir allergnädigst gestattet hat, in den Kgl. Preuss. Staaten ein Fideicommiss zu errichten, so erkläre ich hiermit: das Capital, welches die Kgl. Dänische Regierung sich verbunden hat, für meine Augustenburgischen und Grafensteinischen Fideicommissgüter mir auszuzahlen, zum Ankauf eines Gütercomplexes in den Kgl. Preuss. Staaten anwenden und entweder diesen Gütercomplex selbst zum Fideicommiss machen oder jenes Capital in demselben als Fideicommisscapital radiciren zu wollen mit derselben Successionsordnung, die für meine bisherigen Fideicommissgüter galt."

Erklärung der beiden Prinzen: „Wir Unterzeichnete erklären, dazu von unserm Herrn Vater aufgefordert, dass wir unsere Einwilligung zur Aufhebung des auf den Augustenburgischen und Grafensteinischen Fideicommissgütern, wie auf dem für dieselben zu zahlenden Capital ruhenden fideicommissarischen Bandes hiermit ertheilen, wie auch dazu, dass dieses Capital in Uebereinstimmung mit der Erklärung unsers Herrn Vaters in einem anzukaufenden Gütercomplex als Fideicommisscapital radicirt oder der Gütercomplex selbst zum Fideicommiss gemacht werde."

Auf Grund derselben unterzeichnete der König von Dänemark am 13. Januar 1853 eine Zusatzacte zur Königl. Obligation vom 11. Juni 1852, wodurch die Aufhebung der auf dieser Obligation haftenden fideicommissarischen Eigenschaft ausgesprochen wurde.

Aus dem Vorstehenden ergiebt sich:

1. dass Herzog Friedrich niemals um einen Consens zu der Acte vom 30. December 1852 und zu keiner der darin enthaltenen Verpflichtungen angegangen worden ist oder denselben ertheilt hat;

2. dass die von demselben abgegebene Erklärung keinen Bezug nimmt auf die Acte vom 30. December 1852 und weder direct noch indirect die Staatssuccession betrifft;

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3. dass dieselbe lediglich in Beziehung steht zu der dem Könige von Preussen gegebenen Erklärung des Herzogs Christian August, die ihm schuldige Kaufsumme in Preussen fideicommissarisch belegen zu wollen;

4. dass dieselbe also nur ein privatrechtliches Verhältniss und zwar die fideicommissarische Eigenschaft eines für fideicommissarische Privatgüter gezahlten Capitals betrifft.

Nach diesen Erläuterungen wird es begreiflich, weshalb man es Dänischer Seits niemals unternommen hat, der Erklärung der Söhne des Herzogs irgend welche politische Bedeutung beizulegen, und es wird fernerhin unmöglich sein, die Erklärung des Herzogs Friedrich in irgend welcher Weise direct oder indirect auf Staatssuccession zu beziehen.

No. 2236.

HOLSTEIN. — Erlass des Kaiserl. Königl. Statthalters für Holstein. — Die Nichtannahme von Petitionen wegen Einberufung der Holsteinischen Landesvertretung betr. —

Kiel, den 11. Januar 1866.

No. 2236. Holstein, 11. Jan. 1866.

In der 28. Sitzung der Bundes-Versammlung vom 18. November v. J. ist von den Bundestags-Gesandten Oesterreichs und Preussens, Namens ihrer Regierungen, folgende Erklärung abgegeben worden:

„Bereits früher haben die Regierungen von Oesterreich und Preussen die Absicht ausgesprochen, auf eine Berufung der Ständeversammlung des Herzogthums Holstein Bedacht nehmen zu wollen. Es ist in diesen Intentionen auch jetzt eine Aenderung nicht eingetreten, nachdem die Ausübung der Souverainetätsrechte im Herzogthume Holstein auf S. Majestät den Kaiser von Oesterreich übergegangen ist, jedoch muss die Wahl des Zeitpunktes für die Berufung der Stände noch weiterer Erwägung vorbehalten bleiben, und kann der gegenwärtige Augenblick als dazu nicht geeignet erscheinen. Seiner Zeit werden die beiden allerhöchsten Regierungen gern bereit sein, der hohen Bundes-Versammlung, sobald die Sache so weit gediehen sein wird, weitere Mittheilung zukommen zu lassen."

Nach öffentlichen Mittheilungen sollen aber jetzt an verschiedenen Orten im Herzogthum Petitionen wegen beschleunigter Einberufung der Landes-Vertretung vorbereitet werden. ¶ Mit Rücksicht auf vorstehende Erklärung und da sich die Verhältnisse — die mir bekannt — seither noch nicht verändert haben, muss ich mich daher zu der Eröffnung veranlasst finden, dass ich solchen Bestrebungen im Lande meine wirksame Beihülfe zu gewähren ausser Stande bin, und demnach derartige gegenwärtig voraussichtlich erfolglose Petitionen entgegen zu nehmen, behindert sein würde. Ich ersuche die Landes-Regierung, Vorstehendes unverzüglich zur öffentlichen Kunde zu bringen.

v. Gablenz.

No. 2237.

HOLSTEIN. — Bekanntmachung der Herzogl. Holstein. Landesregierung, die beabsichtigte Versammlung der Schleswig-Holsteinischen Vereine in Altona betr. —

No. 2237. Holstein, 21. Jan. 1866.

Die Landesregierung hat aus den öffentlichen Blättern ersehen, dass am 23. d. M. eine Versammlung der Schleswig-Holsteinischen Vereine in Altona zusammentreten wird, um Beschlüsse wegen unverweilter Einberufung der Stände zu fassen. ¶ So sehr auch die Landesregierung den Wunsch der Bevölkerung theilt, dass der Augenblick nicht mehr fern sein möge, wo die rechtmässige Landesvertretung auf die Regelung unserer öffentlichen Zustände fördernd einwirke, und je zuversichtlicher sie die Erwartung hegen darf, dass in möglichst kurzer Frist dieser Wunsch in Erfüllung gehen wird, so kann sie sich doch der Ueberzeugung nicht verschliessen, dass der geeignete Zeitpunkt noch nicht gekommen ist. ¶ Mit Beziehung auf das Rescript vom 11. d. Mts., in welchem S. Excellenz der Kaiserl. Königl. Statthalter in seiner Fürsorge für die Wohlfahrt des Landes von den auf Einberufung der Stände abzielenden agitatorischen Bestrebungen abmahnt, hält die Landesregierung es vielmehr für eine in den Verhältnissen begründete Pflicht, indem sie an den patriotischen Sinn der Bevölkerung sich wendet, die bestimmte Erwartung auszusprechen, dass die in der Presse, in Vereinen und Volksversammlungen auftretende Agitation für eine Massregel aufgegeben wird, welche im gegenwärtigen Augenblicke, von ihrer Erfolglosigkeit abgesehen, nur neue Gefahren heraufzubeschwören geeignet ist.*)

Kiel, den 21. Januar 1866.

Herzoglich Holsteinische Landesregierung.
v. Stemann.

No. 2238.

HOLSTEIN. — Neunzehn ritterschaftliche Grundsbesitzer an den Königl. Preuss. Ministerpräsidenten. — Bitte um Vereinigung der Herzogthümer mit der Preussischen Monarchie. —

No. 2238. Holstein, 23. Jan. 1866.

Hochgeehrter Herr Minister-Präsident! Hochgeborener Herr Graf! Ew. Excellenz sind — wir hegen darüber keinen Zweifel — nicht weniger wie wir von den unberechenbaren Nachtheilen durchdrungen, welche die gegenwärtige Uebergangsperiode, im völligen Gegensatze zu den wohlmeinenden Absichten

*) Die oben erwähnte Versammlung hat mit Erlaubniss der Polizeibehörde dennoch stattgefunden, nachdem die Vorstände der drei Altonaer Vereine, (des S.-H. Vereins, des S.-H. Volks-Vereins und des Kampfgenossenvereins) dem Polizeiherrn die bündigste Erklärung gegeben hatten, dass nur eine Besprechung, durchaus keine Beschlussfassung über die Ständefrage auf der Tagesordnung stände, und dass man von einer Beschlussfassung um so mehr absehen könne, da ja selbst die Herzogliche Landesregierung in ihrem Erlasse vom 21. d. M. die Hoffnung auf eine baldige Zusammenberufung der Stände ausspreche.

No. 2238. Holstein, 23. Jan. 1866.

der hohen Mächte, welche die Gasteiner Convention abgeschlossen haben, für die Herzogthümer Schleswig-Holstein nach sich zieht. Wenn dieselbe über gewisse Grenzen hinaus fortdauern sollte, so könnte sie die ganze Zukunft unseres Vaterlandes gefährden. Sie ist in Holstein von Umständen begleitet, die mit einem gesicherten und geordneten Zustand der Dinge unvereinbar sind und deren längeres Fortbestehen das Land nach und nach vollständig demoralisiren würde. Wir brauchen diese Umstände nicht näher zu entwickeln. Sie sind Ew. Excellenz genugsam bekannt. ¶ Hochdieselben werden die Bedeutung und die Tragweite von Agitationen vollkommen ermessen, deren ausgesprochener Zweck als eine sowohl rechtliche wie moralische Unmöglichkeit erscheint, die aber in Wirklichkeit auch anderen Zwecken, als den angegebenen, nicht fremd sind, und die jedenfalls dazu beitragen, den gesunden Sinn der Bevölkerung und ihr Urtheil über ihre heiligsten Interessen zu verwirren. ¶ Wir haben es den augenblicklichen Verhältnissen nicht angemessen finden können, in zahlreicher Versammlung die hier angedeuteten Uebelstände zur Sprache zu bringen und eine öffentliche Kundgebung im Sinne der wahrhaften höchsten Interessen der Herzogthümer zu veranlassen. Wir Endesunterschriebenen haben aber, im Vertrauen auf Ew. Excellenz bewährtes tiefes Verständniss der wahren Bedürfnisse der Länder und Völker, auf deren Schicksal einen hohen Einfluss auszuüben Sie berufen sind, beschlossen, Hochdero gütige Vermittelung ganz gehorsamst in Anspruch zu nehmen, um den ehrerbietigen Ausdruck unserer Gefühle zur Kenntniss Seiner Majestät des Königs zu bringen. ¶ Wir sprechen es unumwunden aus, dass wir das Wohl und das Heil unseres Vaterlandes nur in dessen Vereinigung mit der Preussischen Monarchie erblicken können, und vertrauen ganz der Weisheit Sr. Majestät des Königs, dass Allerhöchstdieselben die dahin führenden Schritte zu erwählen wissen, wie auch den demnächst unter seinem Scepter verbundenen Landen ihre eigenthümlichen Einrichtungen, soweit diese sich mit dem Gemeinwohl vereinigen lassen, erhalten werden. Möge dieses ersehnte Ziel bald — sobald die Umstände es irgend zulassen — erreicht werden! Das ist unser innigster Wunsch, auf dass der jetzige Zustand der Ungewissheit und Schwankung dem Lande nicht immer tiefere Wunden schlage! ¶ Genehmigen Ew. Excellenz die Versicherung unserer ausgezeichnetsten und aufrichtigsten Hochachtung.

Altenhof und Altona, den 23. Januar 1866.

Scheel-Plessen. Reventlow Criminil auf Emkendorf. Graf *Brockdorff-Ahlefeldt* auf Ascheberg. *G. v. Cronstern* auf Rehmten-Marutendorf und Hohenscherlen. Graf *Plaren* auf Caden. Graf *Baudissin* auf Borstel. *H. v. Hollen* auf Schoenweide und Görtz. O. Graf *v. Blome* auf Salzau. *v. Mesmer-Saldern* auf Schierensee und Annenhof. E. Graf *v. Reventlow* auf Altenhof und Glatau. Hennig Otto *v. Ahlefeld* auf Lindau und Königsforde. Th. Graf *Reventlow* auf Jersbeck und Stegen. *Adolf Blome* auf Heiligenstedten. Graf *Schimmelmann* auf Tangstedt. *v. Buchwaldt* auf Pronstorf. *H. v. Buchwaldt* auf Helmstorff. *v. Levetzow* auf Putlos, Ehlerstorff und Schönhagen. Graf *Hahn* auf Neuhaus. Graf *E. Schimmelmann* auf Ahrensburg.

No. 2239.

PREUSSEN. — Min. d. Ausw. a. d. Kön. Botsch. in Wien. — Beschwerde über die Vorgänge in Holstein, namentlich über die Gestattung der Versammlung in Altona. —

Berlin, 26. Januar 1866.

No. 2239. Preussen, 26. Jan. 1866.

In meinem Erlass vom 20. d. Mts. habe ich die Lage der Dinge in Holstein, zu deren Kenntniss Ew. etc. in meinen anderweitigen Mittheilungen ein reiches Material zu Gebote stand, zusammenfassend besprochen und Sie ersucht, dem Herrn Grafen Mensdorff über die Rückwirkung der Vorgänge in Holstein auf den Gesammtcharakter unserer Beziehungen zu Oesterreich keinen Zweifel zu lassen. Die neuerlichen Nachrichten aus Altona nöthigen mich darauf zurückzukommen. Man wird auch in Wien fühlen, dass die dort stattgefundene Versammlung Schleswig-Holsteinischer Kampfgenossen und Vereine nicht mehr blos ein einzelnes Glied in der Kette scheinbar unbedeutender Vorkommnisse bildet, über welche wir uns seit Langem zu beschweren gehabt, sondern dass sie eine entscheidende Wendung bezeichnet, bei welcher sich herausstellen muss, welchen Charakter das Wiener Cabinet seinen Beziehungen zu uns geben will. ¶ Diese Versammlung ist in der That eine Erscheinung, auf deren Zulassung auf dem Gebiet des Oesterreichischen Regiments in Holstein wir selbst nach den bisherigen Vorgängen nicht gefasst sein konnten. Eine Massendemonstration, bestimmt zur Agitation theils für Zwecke, welche die Landesregierung kurz vorher in ausdrücklichem Auftrage des Statthalters abgelehnt hatte, theils ausdrücklich und direct gegen Preussen; diese Demonstration zuerst polizeilich beanstandet, dann von der Landesregierung nach Verständigung mit dem Vorstande in einer Weise zugelassen, dass wenn nur keine Resolutionen gefasst wurden, den aufregendsten Reden der weiteste Spielraum gegönnt wurde; endlich die Versammlung von leitenden Demokraten aus andern Deutschen Ländern besucht, ganz in derselben Weise wie die Versammlungen in Frankfurt und zu demselben Zwecke. ¶ Der Plan zu dieser Versammlung zeigt, wie man im Lande die Erklärungen der Landesregierung und des Statthalters über die Agitation wegen Berufung aufgefasst und verstanden hatte; und die Zulassung derselben hat leider bewiesen, dass dies ein richtiges Verständniss war. ¶ Es erscheint fast unbegreiflich, dass es zu diesem Punkte hat kommen können, wenn wir auf die Tage von Gastein und Salzburg zurückblicken. Ich durfte damals annehmen, dass S. Maj. der Kaiser von Oesterreich und Seine Minister eben so klar wie wir über den gemeinsamen Feind beider Mächte, die Revolution, sähen; und wir glaubten über die Nothwendigkeit und den Plan des Kampfes gegen dieselbe einig zu sein. Auf diese Ueberzeugung gestützt, machten wir in Wien den Vorschlag des Vorgehens in Frankfurt, auf welchen das Kaiserliche Cabinet einging, dem es aber bald die Spitze abzubrechen suchte und dessen Wirkung dadurch in Nichts verlaufen ist. Dieses Verhalten war wohl geeignet, uns bedenklich zu machen, indessen könnten wir doch diese Lauheit und Zurückhaltung noch einer gewissen Passivität und der

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Nachwirkung früherer Traditionen zuschreiben. Wir durften daher, wenn uns auch diese Erfahrung für die Zukunft zur Vorsicht mahnte, uns doch enthalten, besorglichere Folgerungen daraus zu ziehen. ¶ Das gegenwärtige Verhalten der Kaiserlichen Regierung in Holstein trägt einen anderen Charakter. Wir müssen es geradezu als ein aggressives bezeichnen, und die Kaiserliche Regierung steht nicht an, genau dieselben Mittel der Agitation gegen uns ins Feld zu führen, welche sie mit uns gemeinsam in Frankfurt hatte bekämpfen wollen. Worin unterscheidet sich jene, durch den Zuzug von Führern der Demokratie aus Hessen, Frankfurt, Bayern illustrirte Massenversammlung von denjenigen Versammlungen, über deren Zulassung Oesterreich selbst mit uns in Frankfurt Beschwerde geführt hat? Höchstens dadurch, dass der Kaiserl. Statthalterschaft in den Holsteinischen Gesetzen wirksamere Gegenmittel zu Gebote standen, als dem Frankfurter Senate, dass die Agitation in Holstein ein bestimmteres und greifbareres Object hat und noch unmittelbarer und feindlicher gegen Preussen gerichtet ist — ebenso feindlich aber gegen das für Preussen und Oesterreich gemeinsame Recht der Souverainetät in den Herzogthümern! Nur der Gebrauch, den man von der durch solche Demonstrationen hervorgerufenen Stimmung in feindlicher Tendenz gegen Preussen machen will, erklärt es, wenn man in Wien übersieht, dass alle diese Angriffe auf das Recht Preussens ebensosehr die Rechte Sr. M. des Kaisers treffen und dass man dort die verderbliche Wirkung ignoriren kann, welche im Lande durch das begünstigte und gebildete System der Agitation hervorgebracht wird; dass man es zulässt, wenn in Holsteinischen Versammlungen Süddeutsche Agitatoren die Aufforderung zur Steuerverweigerung ins Land schleudern. Ich habe Ew. etc. schon bei früheren Gelegenheiten ausgesprochen, dass wenn man in Wien dieser Umwandlung eines bisher durch seinen conservativen Sinn ausgezeichneten Volksstammes in einen Herd der revolutionären Bestrebungen ruhig glaubt zusehen zu können, wir unsererseits es nicht dürfen und nicht zu thun entschlossen sind. Durch den Gasteiner Vertrag ist jedes der beiden Herzogthümer gleichsam als ein anvertrautes Pfand der Loyalität des einen der beiden Mitbesitzer übergeben; wir hatten die Hoffnung, von da aus zu einer weitern Verständigung zu gelangen, und wir haben das Recht zu fordern, dass bis zu dem Eintritt dieser Verständigung das Object selbst im *status quo* erhalten werde. Eine Deteriorirung desselben, wie sie durch diese Agitation bewirkt wird, können und wollen wir uns nicht gefallen lassen. Das Preisgeben aller Autorität, die Zulassung offenbarer Missachtung und Verhöhnung selbstgegebener Bestimmungen, die principielle Nichtanwendung bestehender Gesetze unter Anfechtung der Gültigkeit derselben Seitens der Kaiserlichen Regierung sind erhebliche Beschädigungen des moralischen Princips, welches in den durch einen opfervollen Krieg unserer Fürsorge anheimgegebenen Ländern aufrecht zu erhalten, wir uns verpflichtet erachten. ¶ Ew. etc. überlasse ich zu erwägen, welchen Eindruck ein solches Verfahren seines Bundesgenossen im Kriege, jetzt im Frieden auf S. M., den König unsern Allergnädigsten Herrn, machen, wie schmerzlich es ihn berühren müsse, revolutionäre und jedem Thron feindliche Tendenzen, unter dem Schutze des Oesterreichischen Doppeladlers entfaltet zu sehen! Und wie solche Eindrücke dahin führen

müssen, das von Sr. M. lange und liebevoll gehegte Gefühl der Zusammengehörigkeit der beiden Deutschen Mächte zu erschüttern und zu schwächen! ¶ Es ist auf ausdrücklichen Befehl Sr. M. des Königs, dass ich Ew. etc. ergebenst auffordere, dies offen dem Hrn. Grafen v. Mensdorff auszusprechen und ihn zu ersuchen, es zur Kenntniss seines Kaiserlichen Herrn zu bringen. ¶ Die Regierung Sr. M. des Königs bittet das Kaiserliche Cabinet im Namen der beiderseitigen Interessen, den Schädigungen, welche das monarchische Princip, der Sinn für öffentliche Ordnung und die Einigkeit beider Mächte durch das jetzt in Holstein gehandhabte System leiden, ein Ziel zu setzen; sie hält es für ein Leichtes, wenn die Gesetze des Landes, an deren Bestehen kein ernster Zweifel obwalten kann, zur Anwendung gebracht werden, den unwürdigen Schmähungen in Presse und Vereinen gegen seinen Bundesgenossen und Mitbesitzer ein Ende zu machen und die Einwirkung des sogenannten Kieler Hofes auf das Land, welche einen fortwährenden Protest und Angriff gegen sein wie gegen unser Recht enthält, für die Zukunft unmöglich zu machen. Wir verlangen keine Concession, kein Aufgeben irgend eines Oesterreichischen Rechts in den Herzogthümern, sondern nur die Erhaltung des gemeinsamen Rechts; nichts Anderes, als was Oesterreich eben so sehr seiner eigenen wie unserer Stellung schuldig ist; auch nichts Anderes, als was die Kaiserliche Regierung jeden Augenblick ohne irgend ein Opfer oder eine Schädigung ihrer Interessen auszuführen in der Lage ist. Mag dieses gemeinsame Recht für Oesterreich von geringem Werthe sein, für Preussen ist die Feststellung und Durchführung desselben eine von ihrer Gesammtpolitik untrennbare Lebensfrage der jetzigen Regierung S. M. des Königs. ¶ Eine verneinende oder ausweichende Antwort auf unsere Bitte würde uns die Ueberzeugung geben, dass die Kaiserliche Regierung nicht den Willen habe, auf die Dauer gemeinsame Wege mit uns zu gehen, sondern dass die Preussen abgeneigten Tendenzen, dass ein, wie wir hoffen überwundener traditioneller Antagonismus gegen Preussen, welcher sich jetzt das Gebiet der Herzogthümer zum Felde seiner Wirksamkeit ausersehen hat, in ihr mächtiger ist, als das Gefühl der Zusammengehörigkeit und der gemeinsamen Interessen! Es würde dies für die Königliche Regierung, es würde vor Allem für S. M. den König selbst eine schmerzliche Enttäuschung sein, welche wir wünschen und hoffen uns erspart zu sehen. Aber es ist ein unabweisbares Bedürfniss für uns, Klarheit in unsere Verhältnisse zu bringen. Wir müssen, wenn die von uns angestrebte intime Gemeinsamkeit der Gesammtpolitik beider Mächte sich nicht verwirklichen lässt, für unsere ganze Politik volle Freiheit gewinnen und von derselben den Gebrauch machen, welchen wir den Interessen Preussens entsprechend halten. ¶ Ich bitte Ew. etc., hierüber dem Herrn Grafen v. Mensdorff keine Zweifel zu lassen. Der Augenblick ist zu ernst, und die neuesten Vorgänge, welche auch in Wien nicht mehr ignorirt werden können und deren Auffassung und Behandlung auf die Haltung und die Ansichten des Kaiserlichen Cabinets ein für uns entscheidendes Licht werfen muss, haben die Verhältnisse zu sehr auf die Spitze getrieben, dass eine weniger offene Sprache an der Zeit wäre. ¶ Ew. etc. sind ermächtigt, dem Kaiserlichen Herrn Minister diesen Erlass in seinem ganzen Umfange vorzulesen und selbst, wenn er es wünschen

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sollte, denselben zur Kenntniss Sr. M. des Kaisers zu bringen, ihm denselben zu diesem Zweck in den Händen zu lassen.

v. Bismarck.

No. 2240.

SCHLESWIG. — Bekanntmachung des Gouverneurs des Herzogth. Schleswig betr. Petitionen wegen Einberufung der Landesvertretung für Schleswig. —

No. 2240. Schleswig, 27. Jan. 1866.

Die Herren Römer in Oldensworth, H. Hancken in Tönning, C. L. Ebsen in Wippendorf, A. Thomsen in Kiel und Roderich Graf Baudissin in Pyrmont, haben mir unter Hinweis auf das Bedauern, das ich über den Mangel einer Landesvertretung ausgesprochen hätte, geschrieben, wie die Lage des Landes ihnen zur Pflicht mache, mir die Nothwendigkeit vorzustellen, dass eine baldige Einberufung der Landesvertretung für Schleswig erfolge. ¶ Die einzelnen Eingaben dieser Herren stimmen nicht nur in der Fassung des Antrags, sondern auch in den zur Motivirung desselben erhobenen Anschuldigungen über die Art und Weise mit einander wörtlich überein, in der die Verwaltung geführt werde, seitdem Preussen und Oesterreich nach dem Friedensschlusse mit Dänemark die Regierung auch in dem Herzogthum Schleswig ungehindert ausüben. ¶ Ich übergehe Ton, Motivirung und Anschuldigungen in diesen Schreiben und verweise, indem ich mich nur an den Antrag selbst halte, einfach auf die Worte, welche ich am 25. September v. J. in Flensburg an die Beamten gerichtet habe. ¶ Sie lauten:

> „Die Verhältnisse, die über den Herzogthümern schweben, haben es leider zur Nothwendigkeit gemacht, dass ein Factor, der zu ihrem Wohle unumgänglich nothwendig ist, schon seit längerer Zeit ruht — ich meine die Landesvertretung. So lange diese ruht, haben wir die doppelte Verpflichtung vollster Amtserfüllung, um sie dem Lande möglichst zu ersetzen, und glauben Sie mir, es wird ein erhebendes Gefühl für Sie Alle sein, wenn die legale Landesvertretung dann ihren Beifall zu Ihrer Wirksamkeit aussprechen wird.“

Die Verhältnisse von damals walten auch heute noch ob; die doppelte Verpflichtung vollster Amtserfüllung ruht auch heute noch auf mir und sämmtlichen Beamten des Herzogthums. Wir werden ihr mit Gottes Beistand nachkommen! ¶ Dies ist meine Antwort an die oben genannten Herren, die ich in dieser das ganze Land interessirenden Sache öffentlich gebe und welche zugleich als Beantwortung aller Schreiben ähnlichen Inhalts dient, die mir in dieser Frage jetzt noch zugehen sollten.

Schloss Gottorff, den 27. Januar 1866.

Der Gouverneur des Herzogthums Schleswig.

E. Manteuffel,

Generallieutenant, Generaladjutant Seiner Majestät des Königs von Preussen.

Anlage. — Eingabe früherer Schleswigscher Abgeordneter um Berufung der Landesvertretung. —

No. 2240. Schleswig, 27. Jan. 1866.

Als die beiden Deutschen Grossmächte im Februar 1864 ihre Truppen in Schleswig einrücken liessen, richtete der Feldmarschall von Wrangel, als Höchstcommandirender der Armeen der beiden alliirten Majestäten, und also als deren Mandatar, an die Bewohner des Herzogthums Schleswig eine Proclamation, in welcher er denselben die feierliche Zusicherung gab:

„Wir kommen, um Eure Rechte zu schützen. Die Gesetze des Landes behalten Geltung, soweit die Sicherheit der Truppen nicht äugenblickliche und vorübergehende Ausnahmen erfordert." „Unsere Truppen kommen als Freunde, Ihr werdet sie als Freunde aufnehmen."

Dieser Zusicherung gemäss sollten selbst während des Kriegszustandes die Gesetze des Landes ihre Geltung behalten, soweit die Sicherheit der Truppen nicht augenblickliche und vorübergehende Ausnahmen erfordern. ¶ Nun hat nicht allein seit anderthalb Jahren der Kriegszustand thatsächlich aufgehört, sondern es ist auch bereits über ein Jahr vergangen, seitdem in aller Form Frieden geschlossen worden ist zwischen Dänemark und den Deutschen Grossmächten, und in Folge dieses Friedens üben Preussen und Oesterreich unbehindert die Regierung auch im Herzogthum Schleswig aus. ¶ Obgleich sonach jeder Grund längst beseitigt ist, der eine auch nur vorübergehende und augenblickliche Ausserachtlassung der Gesetze irgendwie gerechtfertigt erscheinen lassen könnte, und trotzdem der Bevölkerung die ausdrückliche Zusicherung gegeben worden ist, dass die Occupation des Herzogthums Schleswig den Zweck verfolge, das Volk in seinem Rechte zu schützen, sind die politischen und administrativen Zustände des Herzogthums, wie sie zur Zeit bestehen, leider derartig, dass sie Alle, denen das Wohl des Landes am Herzen liegt, mögen sie nun mit Deutscher oder mit Dänischer Zunge reden, mit schwerem Bedenken erfüllen müssen. ¶ In der Organisation des Landes und seiner Behörden haben seit dem Februar 1864 eine Reihe von Veränderungen stattgehabt, bei denen auf die gesetzliche Mitwirkung der Landesvertretung in keiner Weise Bedacht genommen worden ist. Es ist in allen politischen und volkswirthschaftlichen Verhältnissen eine Unsicherheit eingetreten, die das Rechtsgefühl nicht minder, wie das Wohl der Bevölkerung gefährdet. Zur Begründung eines festen Rechtszustandes, welcher nothwendig mit den Anforderungen der Gegenwart und den Rechten des Volks im Einklang stehen muss, ist bis jetzt nicht das Geringste geschehen. Selbst an den erforderlichen vorbereitenden Schritten hat man es durchaus fehlen lassen. ¶ Nach den factisch bestehenden Gesetzen steht der Bevölkerung ein, wenn auch nur knapp bemessenes Mass von constitutionellen Gerechtsamen zu, in welchen einseitig Aenderungen vorzunehmen, dem Gouvernement nicht zusteht. Die Regierung hat nicht das Recht, anders als mit Zustimmung der Landesvertretung Gesetze zu erlassen. Selbst in dringlichen Fällen, wenn die Stände nicht versammelt sind und nicht so schnell, als die Umstände es erforderlich machen, zusammenberufen werden können, dürfen provisorische Verfügungen nur unter der Verantwortlichkeit des Ministers für das Herzogthum Schleswig er-

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lassen werden, welchen die Stände, wenn sie einen dringenden Grund zur Erlassung einer solchen provisorischen Verfügung nicht anerkennen, vor dem Appellationsgerichte des Herzogthums Schleswig zur Verantwortung zu ziehen, berechtigt sind. Zum mindesten in jedem dritten Jahre hat die Einberufung einer ordentlichen Ständeversammlung stattzufinden, welche zur Einreichung und Unterstützung von Vorschlägen, Anträgen und Beschwerden befugt ist. ¶ Das Jahr 1866 hat bereits begonnen, in welchem nach der Verfassungsordnung für das Herzogthum Schleswig von 1854 die Einberufung der Landesvertretung stattfinden muss. Weil aber die Mehrheit der Abgeordneten und Stellvertreter aus verschiedenen Gründen verfassungsmässig keine Landesvertreter sind, so fehlt es dem Lande zur Zeit an dem gesetzmässigen Organe zur Ausübung irgend welcher constitutionellen Rechte und Befugnisse. Gleichwohl ist eine Reihe legislatorischer Massregeln angeordnet worden, welche zweifellos als der Zustimmung der Landesvertretung bedürftig angesehen werden müssen. ¶ Die gesammte Finanzverwaltung des Landes beruht auf administrativem Belieben ohne jede constitutionelle Controlle. ¶ Das Land ist mit einer so starken Besatzung belastet, als ob der Kriegszustand noch immer fortbestände, und die Beschwerung desselben in dieser Hinsicht hat einen Umfang erreicht, der weit das Mass überschreitet, in welchem das Herzogthum Holstein in Anspruch genommen wird. ¶ Der fortwährende Wechsel der Beamten erschwert in hohem Grade eine gedeihliche Wirksamkeit der Verwaltung, er macht es derselben fast unmöglich, den Verhältnissen und Interessen der verschiedenen Kreise näher zu treten. ¶ Die drückenden Massnahmen, welche in jüngster Zeit theils für das ganze Herzogthum, theils in einzelnen Bezirken angeordnet worden sind, erregen den Anschein, als ob das Land ungehört und ungefragt der einseitigen Herrschaft des einen der hohen Alliirten unterworfen werden soll, und immer allgemeiner wird die Meinung, dass bei der Besetzung der Aemter der Gesichtspunkt massgebend sei, wie weit von dem Betreffenden zu gewärtigen stehe, dass derselbe dem angedeuteten Zwecke diene. Eine Reihe administrativer Anordnungen, welche von Wohlwollen zeugen, können es nicht verdecken, dass in der grossen Frage der staatlichen Organisation Schleswigs ohne Zustimmung der Bevölkerung vorgegangen wird. ¶ Diese Lage des Landes hat es dem Unterzeichneten, der der früheren Ständeversammlung des Herzogthums Schleswig angehört hat, zur Pflicht gemacht, auf Grund der Eingangs erwähnten Zusicherungen und im Hinblick auf das von dem hohen Repräsentanten Sr. Majestät des Königs von Preussen geäusserte Bedauern über den Mangel einer Landesvertretung, sowie mit Rücksicht darauf, dass das letzte Jahr der gegenwärtigen Wahlperiode bereits angetreten ist, Hochdemselben die Nothwendigkeit vorzustellen, dass eine baldige Einberufung der Landesvertretung für Schleswig erfolge, damit derselben zur Ausübung ihrer gesetzlichen Rechte und Befugnisse Gelegenheit gegeben werde und damit bei der in Folge des Friedensvertrages vom 30. October 1864 nothwendig gewordenen Neuordnung der politischen Angelegenheiten das Mitbestimmungsrecht des Landes zur endlichen Geltung gelange.

No. 2241.

HOLSTEIN. — Petition von 31 Mitgliedern der Holstein. Stände. — Ersuchen an den K. K. Statthalter in Holstein um Einberufung der Holsteinischen Stände. —

No. 2241. Holstein, 31. Jan. 1866.

In einer unterm 11. Januar d. J. erlassenen Bekanntmachung*) haben Ew. Excellenz darauf hingewiesen, dass von den Regierungen Oesterreichs und Preussens unterm 18. November v. J. in der Bundesversammlung der damalige Zeitpunkt als zur Berufung der Stände des Herzogthums Holstein nicht geeignet bezeichnet sei und haben Sich danach zu der Eröffnung veranlasst gefunden, dass, da sich die Verhältnisse seither noch nicht verändert hätten, Sie behindert sein würden, Petitionen um beschleunigte Einberufung der Ständeversammlung entgegen zu nehmen. ¶ Mit Beziehung auf diese Eröffnung fühlen die unterzeichneten Mitglieder der Holsteinischen Ständeversammlung sich gedrungen, Ew. Excellenz Nachstehendes vorzutragen: ¶ Das Verfassungsgesetz des Herzogthums Holstein vom 11. Juni 1854 bestimmt in seinem § 10 in Betreff des Zusammentretens der ständischen Versammlung, dass dies regelmässig in jedem dritten Jahre geschehen solle, so dass zwei (ordentliche) Versammlungen in jede Wahlperiode fallen. ¶ Die Wahlperiode ist nach § 5 des Anhangs Litt. A auf 6 Jahre festgesetzt. ¶ Die Wahlen der gegenwärtigen Ständemitglieder sind durch Patent vom 2. Juli 1860 ausgeschrieben worden. Die Function derselben hat darnach am 1. Januar 1861 begonnen und wird am 31. December d. J. erlöschen. ¶ Während dieses Zeitraums hat bisher nur eine ordentliche Ständeversammlung, nämlich zu Anfang des Jahres 1863 stattgefunden (Patent vom 29. December 1862). Die Versammlung des Jahres 1861 (Patent vom 19. Februar 1861) war eine ausserordentliche. ¶ Das Verfassungsgesetz verlangt demnach, dass in diesem Jahre die gegenwärtigen Ständemitglieder zu einer zweiten ordentlichen Versammlung berufen werden. ¶ Die Einhaltung dieser gesetzlichen Vorschrift, welche bisher jederzeit beobachtet worden ist, dürfen die Unterzeichneten nicht bezweifeln. Wir dürfen dies um so weniger, als wir vertrauensvoll an der Zusage festhalten, mit welcher Ew. Excellenz die Verwaltung des Herzogthums Holstein übernahmen. ¶ Ew. Excellenz sagten in der Proclamation vom 15. September v. J.*): „Ich verspreche Euch die gewissenhafte Anwendung der bestehenden Gesetze“ und fügten schliesslich hinzu: „Mich beseelt allein der Gedanke . . . . unablässig nur die Entwickelung der Wohlfahrt dieses Landes anzustreben und durch das Vertrauen der Bevölkerung gestützt, den berechtigten Wünschen desselben entgegen zu kommen.“ ¶ Diese letzten Worte machen es uns zur Pflicht, darauf hinzuweisen, dass eine möglichst baldige Berufung der Stände eben so sehr von dem Interesse und der Wohlfahrt des Landes gefordert wird, als sie dem lebhaften und berechtigten Wunsche der Bevölkerung entspricht. ¶ Das Land empfindet es schmerzlich, dass ihm, nachdem es unter

*) No. 2236.

**) No. 2018.

No. 2241. Holstein, 31. Jan. 1866.

Deutsche Verwaltung gestellt ist, jetzt schon ins dritte Jahr die Gelegenheit versagt wird, durch seine Vertretung auf die Gestaltung seiner vielfach veränderten Verhältnisse den gebührenden Einfluss zu gewinnen. — Die Gesetzgebung wird ausgeübt, ohne dass dabei der zweite verfassungsmässige Factor zugezogen wird. Ueber die Finanzen des Landes wird verfügt, ohne den Ständen bei Feststellung des Budgets eine Mitwirkung zu gewähren. ¶ Diesem allen gegenüber kann auch durch die wohlwollende Verwaltung, die dankbar anerkannt wird, der Wunsch und die zuversichtliche Erwartung nicht zurückgedrängt werden:

Ew. Excellenz werde die Holsteinischen Stände zu ihrer zweiten ordentlichen Diät baldigst einberufen.

Kiel, 31. Januar 1866.

An S. Excellenz den Herrn K. K. Statthalter für das Herzogthum *Holstein* Feldmarschall-Lieutenant Freiherrn **von Gablenz**.

No. 2242.

ÖSTERREICH. — Min. d. Ausw. an den Kais. Ges. in Berlin. — Antwort auf die Preuss. Depesche vom 26. Januar (No. 2239), betr. die Zustände in Holstein etc. —

Wien, den 7. Februar 1866.

No. 2242. Oesterreich, 7. Febr. 1866.

Durch meine verschiedenen Mittheilungen, so wie durch die unlängst zu Wien mit mir gepflogenen Unterredungen kennen Ew. etc. vollständig die Ansichten, welche der Kaiserliche Hof in Bezug auf die Gasteiner Convention und die aus derselben hervorgegangene Sachlage festhält. ¶ Der provisorischen Eigenschaft dieses Uebereinkommens eingedenk, werden wir sicher nicht vergessen, dass zu Gastein weder ein Successionsstreit entschieden, noch der Oesterreichischen Monarchie eine Provinz einverleibt, noch uns das Recht eingeräumt worden ist, über die politische Zukunft des Herzogthums Holstein einseitig und ohne Zustimmung Preussens zu verfügen. Ein solches Recht steht uns so wenig zu, wie Preussen ein Recht zu einseitiger Verfügung über das Herzogthum Schleswig erworben hat. Nicht die Substanz, sondern nur den einstweiligen Besitz der Errungenschaften des Wiener Friedensvertrages haben die beiden Mächte unter sich getheilt. Sie haben die definitive Lösung der Souveränetätsfrage einem künftigen Einverständnisse vorbehalten. Ew. etc. wissen, dass der Kaiserliche Hof im vollsten Umfange die bindende Kraft dieses Vorbehaltes anerkennt. Waren es auch nicht Ansprüche Preussens, sondern Rechte des Deutschen Bundes und Rechte der Herzogthümer, welche das Motiv zum Kriege gegen Dänemark bildeten, so erschien es doch stets dem Kaiser, unserem allergnädigsten Herrn, als der Stellung der beiden Deutschen Grossmächte angemessen, die neuen politischen Gestaltungen, die aus dem Kriege hervorgehen mussten, an die Bedingung einer freien Vereinbarung zwischen den Höfen von Wien und Berlin zu knüpfen. Niemals hat Kaiser Franz Joseph verkannt,

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dass eine solche Vereinbarung dem Staatsinteresse Preussens eine gerechte Befriedigung gewähren müsse. Aus unverwerflichen Beweisen leuchtet der Wunsch Sr. Majestät hervor, durch jedes mögliche Zugeständniss die endliche Lösung zu erleichtern. Frei von jeder Verantwortlichkeit dafür, dass das Ziel bis jetzt unerreicht geblieben ist, steht Oesterreich noch immer der Regierung Sr. Majestät des Königs von Preussen dafür ein, dass es nichts zulassen werde, was der vorbehaltenen Verständigung zwischen den beiden Mächten präjudiciren würde. In der einstweiligen Verwaltung Holsteins ist jedoch die Kaiserliche Regierung nach der Uebereinkunft von Gastein keiner Controle unterworfen. Sie ist nicht die alleinige Eigenthümerin der Holstein'schen Souveränetätsrechte, aber die Art der Ausübung derselben ist ihrem eigenen freien Ermessen überlassen. Wie überall, so vertritt sie auch im Norden Deutschlands hohe conservative Interessen, und es ist ihre ernste Sorge, dass ihre ganze Action in Holstein den Anforderungen dieser Pflicht entspreche. Allein ihr Verfahren in Holstein hängt nur von ihren eigenen Eingebungen ab, und sie betrachtet jede einzelne Frage, welche im Bereiche ihrer dortigen Administration auftauchen mag, als ausschliesslich zwischen ihr und ihrem Statthalter schwebend, jeder anderen Einwirkung aber entzogen. Dieselbe Unabhängigkeit räumt sie in Schleswig der Königl. Preussischen Regierung ein. ¶ Diese unsere Auffassung der Lage ist im klaren Wortlaute der Gasteiner Bestimmungen begründet. Sie ist gerecht gegen Preussen, wie gegen uns selbst. Sie entspricht dem Gefühle unserer Würde, sie ist von der nothwendigen Sorge für unsere Interessen gefordert. Das Berliner Cabinet, welchem wir dies alles wiederholt dargelegt haben, hat daher die hier abschriftlich anliegende Depesche wohl kaum in der Erwartung abfassen können, dass wir von der uns so bestimmt und deutlich vorgezeichneten Linie des Verhaltens abweichen würden. ¶ Ich, der ich diese Zeilen zu schreiben die Ehre habe, unterhalte persönlich zu gerne mit dem Freiherrn v. Werther einen vertrauensvollen Verkehr, als dass ich Anstand nehmen sollte, jedes Ereigniss des Tages mit ihm zu besprechen. Graf Mensdorff kann ohne Zweifel dem Freiherrn von Werther anvertrauen, wie die Regierung des Kaisers über die Zulassung jener Altonaer Versammlung denkt, welcher man übrigens in Berlin allzu grosse Wichtigkeit beizulegen scheint. Der Minister des Kaisers aber muss den Anspruch des Königl. Preussischen Gesandten, Rechenschaft über einen Act der Verwaltung Holsteins zu erhalten, entschieden zurückweisen, und ich befolge, indem ich dies ausspreche, nur die Befehle meines Kaiserlichen Herrn, Allerhöchstwelchem ich die Depesche des Herrn Grafen Bismarck zu unterlegen mir zur Pflicht gemacht habe. ¶ Durch den Gasteiner Vertrag — so bemerkt das Cabinet von Berlin — ist jedes der beiden Herzogthümer gleichsam als ein anvertrautes Pfand der Loyalität des einen der beiden Mitbesitzer übergeben. Jeder derselben hat das Recht zu fordern, dass bis zum Eintritte der künftigen Verständigung das Object derselben im *Status quo* erhalten werde. Dem ist in der That nicht anders. Aber dieses Recht bezieht sich augenscheinlich auf die ungeschmälerte Erhaltung der Substanz. Wäre seine Bedeutung die einer Controle der einzelnen Verwaltungshandlungen, so hätte eben so gut die ungetheilte Regierungsgemeinschaft beibehalten werden können, welche bis zur

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Gasteiner Uebereinkunft bestand. Und wenn die Klage gegen uns dahin lautet, dass durch unsere Lauheit und Passivität das monarchische Princip in Holstein geschädigt, der conservative Sinn, der den Holstein'schen Volksstamm ausgezeichnet habe, umgewandelt und das Object der künftigen Verständigung deteriorirt werde, so wird das Gewissen des gesammten Europa mit uns diese Anklage verwerfen, denn das gesammte Europa weiss, dass die Bestrebungen, die heute in Holstein vorherrschen, dieselben sind, die zur Zeit der Gasteiner Convention und längst vor dieser Epoche bestanden und aus welchen der Widerstand der Herzogthümer gegen Dänemark seine Kraft schöpfte. ¶ In Altona haben wir gegen Preussen — dess werden wir ferner geziehen — die nämlichen Excesse verüben lassen, die wir in Frankfurt gemeinschaftlich mit Preussen verurtheilt haben. Wie hat das Königl. Preussische Cabinet sich der naheliegenden Entgegnung aussetzen mögen, dass gerade Preussen sich geweigert hat, ein Verbot solcher Versammlungen, wie sie in Altona stattgefunden, für das gesammte Bundesgebiet zu beantragen? Wäre eine Regelung von Bundes wegen erfolgt, so hätte es in Holstein nicht an einer festen Norm gefehlt, und die Kön. Regierung wäre nicht darauf beschränkt, von uns die Wiedereinführung jener Dänischen Ordonnanzen zu verlangen, über deren Druck die Herzogthümer sich einst laut beschwerten und die wir nicht mehr in praktischer Geltung vorfanden, als wir die Verwaltung Holsteins übernahmen. ¶ Der Kaiser, unser allergnädigster Herr, beklagt tief diese ganze Polemik. Schwer wird S. Majestät sich entschliessen zu glauben, dass König Wilhelm den Massstab für den Werth, welchen der Kaiser auf seine Beziehungen zu Preussen legt, von Oesterreichs Einwilligung oder Nichteinwilligung in den Wunsch der Annexion der Herzogthümer an Preussen werde entnehmen wollen. Ein so einseitiger Anspruch steht den Gedanken des Königs sicher ferne. Dennoch spricht die Königl. Regierung zu uns, als ob unsere so natürliche Weigerung, diese Annexion sich vollziehen zu lassen, nicht anders als durch eine Rückkehr zu einer Politik verderblicher Eifersucht und Rivalität erklärt werden könne. Ja sie spricht, als ob sie von Oesterreich im Kampfe gegen den gemeinsamen Feind, die Revolution, verlassen und dadurch an der Ausführung ihres Willens gehindert sei, auf die Dauer mit uns gemeinsame Wege zu gehen. Möge die Königliche Regierung einen unbefangenen Blick auf die jüngste Vergangenheit werfen! Betrachtet sie Deutschlands Zustände, so tritt ihr die Thatsache entgegen, dass wir, weit entfernt, eine Coalition gegen Preussen bilden zu wollen, unsere Verhältnisse zu den Mittelstaaten der Allianz mit Preussen entschieden nachgesetzt, ja so ernstlich benachtheiligt haben, wie dies die an uns durch die Anerkennung des Königreichs Italien geübte Vergeltung bekundet. Wirft sie die Augen auf die Verhältnisse zwischen den Europäischen Cabinetten, so wird sie bekennen müssen, dass wir überall als Deutsche Macht und als Bundesgenosse Preussens gehandelt, niemals durch auswärtigen Druck auf Preussen zu wirken gesucht haben, und selbst die in Berlin so viel geschmähte Wirksamkeit unseres Botschafters in Paris hat stets nur den Zweck gehabt, Frankreich in seiner Politik der Enthaltung in der Schleswig-Holsteini-

schen Frage zu bestärken. Eine Enttäuschung hat somit die Handlungsweise des Kaisers, die sich unveränderlich nach den obersten Interessen des Friedens und der Ordnung in Oesterreich wie in Deutschland und Europa regelt, dem König von Preussen nicht bereiten können, und mit fester Ueberzeugung lehne ich von dem Kaiserl. Hofe den Vorwurf ab, dass in seinen Gesinnungen und Handlungen der Grund liege, wenn die von Preussen nach den Schlussworten des Herrn Grafen Bismarck aufrichtig angestrebte intime Gemeinsamkeit der Gesammtpolitik beider Mächte sich nicht verwirklichen liesse. ¶ Es ist diese Verwahrung der einzige Zweck meiner Bemerkungen, und ich würde gegen den hohen Sinn des Kaisers verstossen, wenn ich mich von so manchen Wahrnehmungen von gestern und heute verleiten liesse, das Verhalten des Berliner Hofes in Contrast mit dem unserigen zu setzen. ¶ Ew. etc. sind ersucht, dem Königl. Herrn Ministerpräsidenten den gegenwärtigen Erlass zur Kenntniss bringen zu wollen. Ebenso sind Sie für den Fall, dass Graf von Bismarck unsere Rückäusserung seinem erhabenen Souverän vor Augen zu bringen wünschte, zur Mittheilung einer Abschrift ermächtigt. ¶ Empfangen, etc.

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v. Mensdorff.

No. 2243.

HOLSTEIN. — Antrag der Holsteinischen Landesregierung an die K. K. Statthalterschaft, betreffend die Berufung einer Commission zur Begutachtung des Budget-Entwurfs für 1866/67. —

No. 2243. Holstein, 21. Febr. 1866.

Der Kaiserlich Königlichen Statthalterschaft hat die Landesregierung die Ehre gehabt mittelst gehorsamsten Berichts vom 19. d. M. den Entwurf zu dem Budget für das nächste Finanzjahr 1866/67 zur höheren Genehmigung zu unterbreiten. ¶ Sie erlaubt sich hinsichtlich der Behandlung dieses Entwurfs Folgendes zur hochgeneigten Erwägung zu verstellen. ¶ Während die Voranschläge für 1864/65 und 1865/66 ohne Mitwirkung der Landesvertretung haben festgestellt werden müssen, steht eine solche Mitwirkung für das Jahr 1866/67 in Aussicht. ¶ Noch wird die Hoffnung festgehalten werden dürfen, dass im Laufe des Jahres eine Schleswig-Holsteinische Landesversammlung nach einem festgestellten neuen Wahlgesetze berufen werde. ¶ Sollten aber dieser Massregel für die nächste Zukunft unüberwindliche Schwierigkeiten entgegen treten, so wird im Jahre 1866 eine Berufung der Stände für Holstein nach der Verfassung vom 11. Juni 1854 zur Erledigung der Geschäfte stattfinden müssen, weil die im Jahre 1860 auf 6 Jahre gewählten Abgeordneten der Holsteinischen Ständeversammlung, welche verfassungsmässig innerhalb dieser Wahlperiode zweimal zu einer ordentlichen Versammlung berufen werden sollten, erst zu Einer ordentlichen Diät versammelt gewesen sind. ¶ Zwar gewährt die Verfassung von 1854 der Ständeversammlung keine Rechte in Beziehung auf das Budget; allein die Bundesbeschlüsse vom 11. Februar 1858, 12. August 1858, 8. März 1860, 7. Februar 1861 und 9. Juli 1863, wiewohl zunächst auf den Schutz der Gleichstellung Holsteins innerhalb der Dänischen Gesammtmonarchie

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abzielend, berechtigen doch zu der Auffassung, dass auch abgesehen von diesem ihrem nächsten Zwecke gleichwie den Landesvertretungen aller übrigen Bundesstaaten den Ständen Holsteins eine beschliessende Mitwirkung in Finanzangelegenheiten beizulegen sei. Um jedoch dem Sinne der obigen Bundesbeschlüsse zu entsprechen, wird es einer näheren Normirung der Befugnisse bedürfen, welche von der Ständeversammlung hinsichtlich der Feststellung des Budgets auszuüben sein werden, wobei die Landesregierung sich der vertrauensvollen Erwartung wird hingeben dürfen, dass diese Normirung in dem Umfange eintreten wird, wie solcher mit dem gegenwärtigen exceptionellen Zustande unserer öffentlichen Verhältnisse und der Stellung der von Sr. Majestät dem Kaiser von Oesterreich eingesetzten hohen Statthalterschaft irgendwie vereinbar erscheint. ¶ Welche der beiden oben aufgestellten Alternativen nun auch im Laufe des Jahres eintreten möge, so wird doch das Budget für 1866/67 vorläufig ohne Betheiligung der Stände in Wirksamkeit treten und möglicherweise wird ein nahmhafter Theil des Finanzjahres, für welches das Budget bestimmt ist, verflossen sein, ehe dasselbe der Landesvertretung vorgelegt werden kann. Ein solcher Zustand dauert bereits in das dritte Jahr hinein. Die Landesregierung ist zwar bemüht gewesen, die Art und Weise, wie die öffentlichen Gelder verwendet werden, in Budget und Staatsrechnung dem Lande mit vollster Offenheit darzulegen. Rücksichtlich der Frage, ob sie sich hierin in Uebereinstimmung mit der öffentlichen Meinung befindet, hat sie sich dagegen nur auf sporadische Aeusserungen der Presse und Einzelner verwiesen gesehen, das Land wie die Regierung entbehren der Gewähr, welche eine sachgemässe Prüfung durch Personen giebt, denen diese ausdrücklich zur Aufgabe gestellt ist. Eine solche Prüfung würde bei dem Budget des nächsten Finanzjahres umsomehr dem Interesse des Landes entsprechen, als die internationalen Verhandlungen über die finanzielle Auseinandersetzung mit Dänemark ihrem Abschlusse nahe gebracht sind, und nunmehr die Art der Erfüllung der dadurch dem Lande auferlegten Verpflichtungen zur Erwägung kommen wird. ¶ Bei dieser Sachlage und da es auch der hohen Statthalterschaft nur erwünscht sein wird, über die wichtigen Fragen des Staatshaushalts den Rath noch anderer als der Mitglieder der Landesregierung einzuholen, erlaubt die Landesregierung sich gehorsamst zu beantragen, dass das von ihr entworfene Budget einer zu berufenden Commission zur Prüfung und Begutachtung vorgelegt werden möge. So wenig diese Massregel auch der Mitwirkung der gesetzlichen Landesvertretung gleichkommt, so hat dieselbe doch immer den Vorzug vor einer lediglich durch die Behörden erfolgenden Normirung des Budgets. Auch werden die Arbeiten der Commission zugleich für die später zusammentretende Ständeversammlung eine wesentliche Erleichterung ihrer Aufgabe herbeiführen. ¶ Anlangend die Zahl der Mitglieder der Commission, so waren zur Prüfung der finanziellen Vorlagen der Regierung in der letzten Holsteinischen Ständeversammlung 3 Commités von je 5 Mitgliedern erwählt worden, welche demnächst zu Einem Commité zusammentraten. ¶ Im Anschlusse hieran dürfte die Festsetzung der Zahl auf 15 Mitglieder sich empfehlen. In der Auswahl der vorgeschlagenen Personen hat die Landesregierung geglaubt, nur die Qualification und das Interesse für das Landeswohl ins Auge fassen zu sollen. Es liegt in

der Natur der Verhältnisse, dass die Wahl vorzugsweise auf Ständemitglieder gefallen ist. Eine Beschränkung auf diese scheint jedoch nicht geboten, und schon um deswillen kaum empfehlenswerth, damit nicht der Regierung die Auffassung unterstellt werden könne, als erblicke sie in dieser Commission ein Surrogat der Ständeversammlung, welche die Berufung der letzteren und die Vorlegung des Budgets an dieselbe unnöthig machen könnte. ¶ Die Aufgabe der Commission würde darin bestehen, den Entwurf des Budgets zu prüfen, und nachdem sie sich die nöthigen Aufklärungen von der Landesregierung, deren Mitglieder in der Commission zu erscheinen haben würden, hat ertheilen lassen, der Kaiserlich Königlichen Statthalterschaft ihr Gutachten über den Entwurf abzugeben. Hinsichtlich der Regelung des Geschäftsganges, insonderheit wegen der Wahl des Vorsitzenden dürfte der Commission selbst die Bestimmung zu überlassen sein, und in Betreff des Ersatzes für die Kosten der Reise und des Aufenthalts an dem Orte der Berathung würden die Competenzen der Ständemitglieder zur Norm dienen. ¶ Die Landesregierung gestattet sich hiernach ehrerbietigst zu beantragen:

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> die Kaiserlich Königliche Statthalterschaft wolle geneigtest zur Prüfung und Begutachtung des von der Landesregierung eingereichten Budgetentwurfs für das Finanzjahr 1866/67 eine aus 15 Mitgliedern bestehende Commission nach Kiel zusammenberufen und zu Mitgliedern dieser Commission die nachfolgenden Personen, nämlich

1. Klosterpropst von Ahlefeldt in Uetersen, 2. Banquier Dr. W. Ahlmann in Kiel, 3. Hofbesitzer Bockelmann in Rethwischhöhe, 4. D. L. Meyn zu Neuendeich, 5. Administrator von Moltke zu Ranzau, 6. Curator Professor Planck, 7. Oberappellationsgerichtsrath Prehn, 8. Graf E. zu Ranzau auf Rasdorf, 9. Kaufmann Th. Reinke in Altona, 10. Graf Adolph Reventlow auf Wittenberg, 11. Gevollm. Schütt in Burg, 12. Gutsbesitzer Schwerdtfeger auf Travenort, 13. Propst Versmann in Itzehoe, 14. Advocat Wiggers in Rendsburg, 15. Bürgermeister Wyneken in Lütjenburg, ernennen.

Kiel, den 21. Februar 1866.

Herzoglich Holsteinische Landesregierung.

Lesser I. *Wenneker.* *v. Stemann.* *Kraus.* *Reimers.*

No. 2244.

HOLSTEIN. — Vorstellung der Herzogl. Holstein. Landesregierung bei dem K. K. Statthalter in Holstein, betr. die Adresse des Barons Scheel-Plessen und Gen. an den Grafen von Bismarck (Nr. 2238). —

Ew. Excellenz ist es bekannt, dass abseiten des Barons Scheel-Plessen in Altona und anderer 18 Gleichgesinnten eine Adresse an den Preussischen Ministerpräsidenten Grafen von Bismarck gerichtet worden ist, in welcher diese Petenten unumwunden ausgesprochen haben, dass sie das Wohl und das Heil

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unseres Vaterlandes nur in der Vereinigung mit der Preussischen Monarchie erblicken könnten und der Weisheit Sr. Majestät des Königs von Preussen vertrauten, die dahin führenden Schritte zu erwählen. ¶ Obgleich die Landesregierung darüber ihr Befremden nicht zurückhalten kann, dass Holsteinische Unterthanen, in Nichtachtung der Bestimmungen der Gasteiner Convention sich mit ihren Wünschen und Anträgen einseitig an S. Majestät den König von Preussen gewendet haben, und die Landesregierung sich eben so wenig der Erwägung verschliessen kann, dass es den Petenten unmöglich hat entgehen können, dass sie mit jenen ihren Anschauungen hier im Lande isolirt dastehen, so ist es doch nicht die Aufgabe der Landesregierung, nach diesen Richtungen hin einzutreten. Wenn die Petenten aber in der Adresse auszusprechen sich erlauben, dass das gegenwärtige Provisorium in dem Herzogthum Holstein von Umständen begleitet ist, welche mit einem gesicherten und geordneten Zustand der Dinge unvereinbar sind, und deren längeres Fortbestehen das Land nach und nach vollständig demoralisiren würde; wenn die Petenten ferner aussprechen, dass hier Agitationen getrieben werden, deren ausgesprochener Zweck als eine sowohl rechtliche wie moralische Unmöglichkeit erscheine, und jedenfalls dazu beitragen müssten, den gesunden Sinn der Bevölkerung und ihr Urtheil über ihre heiligsten Interessen zu verwirren, — so sind dies Auslassungen, welche die schwersten Anschuldigungen auf das Land häufen, das Walten eines gesetzlosen Zustandes anzeigen, und dadurch die zur Aufrechthaltung der gesetzlichen Ordnung von Ew. Excellenz berufene Landesregierung mit den härtesten Vorwürfen belasten. — Hat jene Adresse sogar durch die Preussische officielle Zeitung eine Veröffentlichung erfahren, so muss die Landesregierung um so mehr sich verpflichtet fühlen, die erhobenen Anschuldigungen zurückzuweisen. Es ist nicht wahr, dass in Holstein Agitationen geduldet werden, deren ausgesprochener Zweck als eine rechtliche wie moralische Unmöglichkeit erscheint; es ist nicht wahr, dass das Provisorium in dem Herzogthum Holstein von Umständen begleitet ist, die mit einem geordneten und gesicherten Zustand der Dinge unvereinbar sind. Diesen Behauptungen gegenüber muss die Landesregierung vielmehr aussprechen, dass der gesunde Sinn der Bevölkerung und ihr Urtheil über ihre heiligsten Interessen sich nicht haben verwirren lassen, dass die Bevölkerung die Achtung gegen Gesetz und Ordnung, die sie stets beurkundet, auch jetzt bewahrt hat. — Was aber die Haltung der Landesregierung betrifft, gegen deren Wirken die Anschuldigungen in gleichem Maasse gerichtet sind, so muss die Landesregierung es Ew. Excellenz Beurtheilung anheimgeben, ob sie in der Aufrechthaltung der gesetzlichen Ordnung ihrer Pflicht Genüge geleistet hat. Sie ist sich bewusst, in den seltenen Fällen einer Ausschreitung abseiten der Bevölkerung und der Presse mit Strenge, und allein von dem Bestreben geleitet, Gesetz und Ordnung aufrecht zu erhalten, eingeschritten zu sein, und glaubt, dass sie nach besten Kräften bemüht gewesen ist, das Wohl des Landes zu fördern. ¶ Sollte die Landesregierung sich hierin täuschen, so wird es für die Mitglieder derselben geboten sein, um die Enthebung von ihren Functionen zu bitten, und sie gestatten sich diese Bitte für solchen Fall hiemittelst ehrerbietigst auszusprechen. — Werden Ew. Excellenz aber die erhobe-

nen Anschuldigungen für unbegründet anerkennen, und die ehrerbietigst Unterzeichneten mit ihren Functionen ferner betrauen, so muss die Landesregierung, — welche sich vorbehält, gegen die Holsteinischen Unterzeichner der Adresse wegen öffentlich zu ahndender Beleidigung ein gerichtliches Verfahren zu veranlassen, — insonderheit mit Rücksicht auf die in Preussen erfolgte amtliche Veröffentlichung der Adresse, sich die ehrerbietigste Bitte erlauben:

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Ew. Excellenz wollen diese Vorstellung Sr. Kaiserl. Königl. apostolischen Majestät, dem Kaiser von Oesterreich, zur Allerhöchsten Kenntniss zu bringen geneigen.

Kiel, den 23. Februar 1866.

Die Herzoglich Holsteinische Landesregierung.

An S. Kaiserl. Königl. Herrn Statthalters Feldmarschall-Lieutenant Freiherrn **von Gablenz**, Excellenz, hier.

No. 2245.

HOLSTEIN. — Rescript der Kaiserl. Königl. Statthalterschaft an die Holsteinische Landesregierung, betreffend die Berufung einer Commission zur Begutachtung des Budget-Entwurfs für 1866/67. —

No. 2245. Holstein, 26. Febr. 1866.

Ich bin bisher von der Annahme geleitet worden, die Auffassung im Lande gehe dahin, dass den ständischen Organisationen des Jahres 1854 nunmehr die Aufgabe zufallen solle, durch ihre Mitwirkung ein neues Wahlgesetz ins Leben zu rufen, auf dessen Grundlage sich eine vereinigte Schleswig-Holsteinische Landesvertretung zu versammeln hätte, welcher bei der definitiven Feststellung der Geschicke der Herzogthümer ein entsprechender Antheil einzuräumen sein würde. ¶ Es wurde hierbei jedoch selbstverständlich eine vorgängige Verständigung zwischen den beiden hohen Mitbesitzern des Landes vorausgesetzt, und in Ermangelung einer solchen konnte daher auch ein bestimmter Termin für die Einberufung nicht in Aussicht genommen werden. — ¶ In der letztern Zeit ist aber von Seiten vieler und sehr achtungswerther Persönlichkeiten im Lande der Ueberzeugung Ausdruck geliehen worden, dass die Verfassung des Jahres 1854, ungeachtet der mittlerweile eingetretenen politischen Ereignisse, nach wie vor ein vollständig geltendes Landesrecht sei, welches unter dem Schutze der bezüglichen bundesgesetzlichen Bestimmungen, zumal des Art. 56 der Wiener Schluss-Acte stehe, und auch die Landesregierung stellt sich in ihrem gefälligen Berichte vom 21. d. M. im Wesentlichen auf diesen Standpunkt. — ¶ Ich kann unter diesen Umständen um so weniger Anstand nehmen, mich ebenfalls für diese rechtliche Basis auszusprechen und die aus derselben für die Kaiserl. Regierung entspringenden Verpflichtungen ihrem ganzen Umfange nach anzuerkennen, als dieselbe dadurch nicht der mindesten Inconsequenz in Bezug auf ihre bisherige gesammte Verfahrungsweise geziehen werden kann. ¶ Ich brauche nach dem Gesagten übrigens wohl kaum noch besonders hervorzuheben, dass ich nunmehr in noch erhöhtem Masse zu der vertrauensvollen Erwartung be-

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rechtigt bin, man werde sich allseitig der nothwendigen Consequenzen, welche sich an diese Entscheidung knüpfen, klar bewusst und daher bestrebt sein, das eigene Verhalten darnach einzurichten. ¶ Den Vorschlägen der Landesregierung wegen Zusammensetzung der zur Berathung des Budgets pro 1866/67 zu berufenden ausserordentlichen Commission ertheile ich ohne Ausnahme meine Genehmigung. Ich weiss den Werth der patriotischen Hingebung, welche in einer Betheiligung an dieser für das Wohl des Landes so wichtigen Verhandlung liegt, auf das Vollständigste zu würdigen und bin zugleich persönlich dankbar für die wesentliche Erleichterung, welche mir dadurch in meinem schweren und verantwortlichen Berufe erwächst. — ¶ Allen Abänderungs-Vorschlägen, welche aus dem Schoosse der Commission hervorgehen sollten, verspreche ich im Voraus eine reifliche und unparteiische Prüfung und ersuche die Landesregierung, mir über den Fortgang der Arbeiten von Zeit zu Zeit eingehenden Bericht zu erstatten. ¶ Möge das Resultat derselben dem Lande zum Heile gereichen und dazu dienen, das Vertrauen noch fester zu knüpfen, von welchem mir die Bevölkerung, mit Ausnahme eines bekannten Bruchtheils, dessen neuerliche Kundgebungen zu beurtheilen ich im Bewusstsein treu erfüllter Pflicht mit voller Beruhigung jedem Unparteiischen anheimgeben darf, während meiner Amtsführung schon so viele zu den schönsten Erinnerungen meines Lebens gehörende Beweise gegeben hat.

Kiel, den 26. Februar 1866.

Der Kaiserl. Königl. Statthalter für das Herzogthum Holstein.

Gablenz,
Feld-Marschall-Lieutenant.

No. 2246.

PREUSSEN. — Min. d. Ausw. an Neunzehn Holsteinische ritterschaftliche Grundbesitzer in Holstein (Scheel-Plessen u. Gen.). — Antwort auf deren Adresse von 23. Jan. 1866 (No. 2238.). —

Berlin, den 2. März 1866.

No. 2246. Preussen, 2. März 1866.

Eurer Excellenz und den Herren, welche mit Ihnen das Schreiben vom 23. Januar d. J. an mich gerichtet haben, danke ich im Auftrage des Königs, meines Allergnädigsten Herrn, für das Vertrauen, welches Sie Allerhöchstdemselben durch den von Ihnen gethanen Schritt bewiesen haben. Seine Majestät beklagt mit Ihnen, dass die Uebelstände, welche der gegenwärtige Uebergangs-Zustand mit sich bringt, durch die aufregende Thätigkeit einer Partei gesteigert werden, deren Ansprüche im Rechte nicht begründet und mit den Verträgen von Wien und Gastein nicht vereinbar sind. Die Königl. Regierung hat sich bemüht, durch Verhandlungen mit der Kaiserl. Oesterreichischen den durch jene Verträge geschaffenen Rechts-Zustand sicher zu stellen und jeder Beeinträchtigung des innern Friedens der Herzogthümer, jeder Gefährdung ihrer Zukunft vorzubeugen. Ich hoffe, dass die Erreichung dieses Zweckes der Weisheit der beiden

Monarchen gelingen werde, in deren Hände der Wiener Friede die Entscheidung über die Zukunft Schleswig-Holsteins gelegt hat. Ich habe schon früher Gelegenheit gehabt, mich öffentlich darüber auszusprechen, dass unter den verschiedenen Formen, in welchen die Rechte Preussens und die Interessen Deutschlands in den Herzogthümern gewahrt werden können, die Vereinigung mit der Preussischen Monarchie die für Schleswig-Holstein selbst vortheilhafteste sei. Das Ansehen, dessen die Namen der Herren Unterzeichner in ihrer Heimath geniessen, giebt der Thatsache, dass Sie mit mir diese Ueberzeugung theilen, ein erhöhtes Gewicht und ermuthigt die Königl. Regierung zu neuen Bestrebungen, die Zustimmung Oesterreichs zu dieser Lösung der schwebenden Frage zu gewinnen, und so die Preussischen, von der Königlichen Regierung unter allen Umständen festzuhaltenden Ansprüche unter Bedingungen zu befriedigen, welche gleichzeitig die Wiederherstellung einheitlicher Verwaltung der Herzogthümer herbeiführen und ihre Wohlfahrt ebenso wie ihre Sicherheit verbürgen würden. ¶ Empfangen Euer Excellenz auch bei dieser Gelegenheit den erneuten Ausdruck meiner ausgezeichnetsten Hochachtung.

No. 2246 Preussen, 2. März 1866.

v. Bismarck.

An den Geheimen Conferenz-Rath Herrn Grafen **von Reventlow**, Excellenz auf *Altenhof.*

No. 2247.

SCHLESWIG. — Provisorische Verordnung, betr. die Bestrafung feindlicher Handlungen gegen die souveräne Gewalt in Schleswig-Holstein. —

No. 2247. Schleswig, 11./13. März 1866.

Wir Wilhelm von Gottes Gnaden, König von Preussen etc. verordnen für das Herzogthum Schleswig, was folgt:

§. 1. Ein Unternehmen, welches darauf abzielt, den in Gemässheit des Wiener Friedenstractats vom 30. October 1864 und der Gasteiner Convention vom 14. August 1865 Uns und Sr. Maj. dem Kaiser von Oesterreich in den Herzogthümern Schleswig und Holstein zustehenden Souveränetätsrechten zuwider, einer andern landesherrlichen Autorität in den Herzogthümern oder in einem derselben gewaltsam Geltung zu verschaffen, soll mit Zuchthaus von 5—10 Jahren bestraft werden. Die Strafe tritt ein, sobald eine Handlung begangen ist, durch welche das verbrecherische Vorhaben unmittelbar zur Ausführung gebracht werden soll.

§. 2. Haben zwei oder mehrere Personen ein derartiges Unternehmen (§. 1) verabredet, ohne dessen Ausführung schon durch Handlungen begonnen zu haben, so soll sie Zuchthaus von 2—5 Jahren treffen.

§. 3. Gleiche Strafe (§. 2) soll Denjenigen treffen, welcher zur Vorbereitung eines derartigen Unternehmens (§. 1) mit einer auswärtigen Regierung sich einlässt, oder die ihm vom Staate anvertraute Macht missbraucht oder Mannschaften anwirbt, oder in den Waffen einübt.

§. 4. Mit Gefängniss von 3 Monaten bis zu 5 Jahren wird bestraft: 1) Wer ein derartiges Unternehmen (§. 1) durch andere, als die im §. 3 be-

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zeichneten Handlungen vorbereitet. 2) Wer öffentlich durch Rede oder Schrift zu einem derartigen Unternehmen (§. 1) oder zu einer dasselbe vorbereitenden Handlung auffordert. 3) Wer öffentlich durch Rede oder Schrift oder anderweitige Kundgebung, den Uns und Sr. Maj. dem Kaiser von Oesterreich in den Herzogthümern Schleswig und Holstein zustehenden Souveränetätsrechten zuwider, einen Andern für den rechtmässigen Souverän oder Landesherrn eines der Herzogthümer oder beider erklärt, oder als solchen bezeichnet.

Urkundlich unter Unsrer höchsteigenhändigen Unterschrift und beigedrucktem Königlichen Insiegel.

Gegeben Berlin, den 11. März 1866.

Wilhelm.

Vorstehende allerhöchste Verordnung wird sämmtlichen Beamten und Behörden im Herzogthum Schleswig, sowie überhaupt Allen, die es angeht, zur Nachachtung hierdurch bekannt gemacht.

Schloss Gottorff, den 13. März 1866.

Der Gouverneur des Herzogthums Schleswig.

E. Manteuffel,

Generallieutenant und Generaladjutant Sr. Maj. des Königs von Preussen.

Die beikommenden Localbehörden werden ersucht und angewiesen, die vorstehend bekannt gemachte allerhöchste Verordnung unverzüglich in ortsüblicher Weise zur allgemeinsten Kenntniss zu bringen.

Schleswig, den 13. März 1866.

Der Königl. Preuss. Civilcommissar für das Herzogthum Schleswig.

Frhr. *v. Zedlitz.*

No. 2248.

PREUSSEN. — Min. des Ausw. an die Königl. Gesandtschaften bei den Deutschen Höfen. — Die Haltung Oesterreichs in der Schleswig-Holst. Frage und die Oesterreichischen Rüstungen betr. —

Berlin, 24. März 1866.

No. 2248. Preussen, 24. März 1866.

Als im August v. J. die Gasteiner Uebereinkunft geschlossen worden war, durften wir hoffen, eine Basis gewonnen zu haben, auf welcher die Lösung der Schleswig-Holsteinischen Frage ohne Nachtheil für das freundschaftliche Einvernehmen beider Mächte abgewartet werden könne. Aber schon bis zum Januar d. J. waren durch das Verhalten Oesterreichs in Holstein die Dinge soweit gediehen, dass wir uns in Depeschen an den Königlichen Gesandten, welche das Datum des 20. und 26. Januar trugen, mit ernsten Beschwerden an die Kaiserlich Oesterreichische Regierung wenden mussten. ¶ Wir hatten uns darüber zu beklagen, dass Oesterreich fortfuhr, sich in directem Widerspruch zu setzen mit den Basen, auf welchen der Wiener Frieden und demnächst die

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Gasteiner Convention beruhten. Denn während Oesterreich in diesem Frieden die Abtretung der Herzogthümer vom König Christian IX., welcher auf Grund der im Jahre 1853 eingeführten und von Oesterreich anerkannten Thronfolge im Besitz derselben war, mit uns gemeinschaftlich angenommen hatte, war jetzt die Thätigkeit der Oesterreichischen Verwaltung in Holstein darauf gerichtet, dieses dem Könige, unserm Allergnädigsten Herrn, in Gemeinschaft mit Seiner Majestät dem Kaiser von Oesterreich gehörige Land ohne Preussens Einwilligung dem Prinzen von Augustenburg thatsächlich zu überantworten, welcher kein Recht auf dasselbe hat, und dessen Ansprüche früher von Oesterreich selbst entschieden bestritten worden waren. Wir trugen diese Beschwerden der Kaiserlichen Regierung in einer ebenso freundschaftlichen als klaren Sprache vor, und baten sie im Interesse unserer intimen Beziehungen um Abstellung derselben und um ungefährdete Erhaltung des in Wien und Gastein stipulirten *status quo*. Wir fügten hinzu, dass, wenn unsere Bitte erfolglos bleibe, wir darin mit Bedauern ein Symptom der Gesinnung Oesterreichs gegen uns sehen müssten, welches uns das Vertrauen auf die Zuverlässigkeit unserer Allianz nehmen würde. In diesem unerwünschten Falle würden wir die Phase der seit zwei Jahren bestandenen intimen Beziehungen als abgeschlossen betrachten und gegen die ferneren Wirkungen des aus diesen und andern Symptomen sich ergebenden Uebelwollens des Oesterreichischen Cabinets gegen Preussen anderweite Sicherheiten zu gewinnen suchen. ¶ Auf diese, von den versöhnlichsten Gesinnungen eingegebene und in der Form freundschaftliche Mittheilung erhielten wir von Wien — in einer Depesche vom 7. Februar — eine ablehnende Antwort*). ¶ Wir haben es nicht für angemessen gehalten, nach derselben die Correspondenz fortzusetzen. Ueber die Bedeutung aber, die wir der Antwort Oesterreichs beilegten, habe ich mich dem Grafen Károlyi gegenüber auf sein Befragen bei der ersten Unterredung nach Empfang der Depesche vom 7. Februar dahin ausgesprochen, dass unsere Beziehungen zu Oesterreich nunmehr anstatt des intimen Charakters, den sie während der letzten Jahre angenommen, auf denselben Standpunkt zurückgeführt worden seien, auf dem sie vor dem Dänischen Kriege gewesen — nicht besser, aber auch nicht schlimmer, als zu jeder fremden Macht. Vom Kriege ist dabei kein Wort gefallen; und jede Drohung mit Krieg lag uns damals ebenso fern wie jetzt. ¶ Seit dieser Zeit, seit der Mittheilung der Depesche vom 7. Februar, haben beide Mächte gegen einander geschwiegen. Von unserer Seite ist nichts geschehen, um die Situation zu verändern, und dennoch sehen wir mit Erstaunen Oesterreich plötzlich zu einem grossen Kriege Vorbereitungen treffen und uns gleichzeitig den Vorwurf machen, als ob wir es seien, die den Frieden zu stören beabsichtigten. Zahlreiche Mannschaften nebst Artillerie und anderem Kriegsmaterial werden aus den östlichen und südlichen Provinzen Oesterreichs nach Norden und Westen gegen unsere Grenze dirigirt, die Regimenter in Kriegsbereitschaft gesetzt, und bald wird eine starke Heeresmacht an unserer vollkommen von allen Gegenmassregeln entblössten Grenze stehen. ¶ In der Anlage finden Eure . . . nähere Angaben über diese

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*) No. 2242.

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Massregeln. Was bezweckt Oesterreich mit diesen Rüstungen? Will es uns mit Gewalt zwingen, sein intimer Bundesgenosse zu bleiben, oder unser Schweigen durch entgegenkommende Eröffnungen zu brechen? In beiden Beziehungen werden wir unsere Freiheit zu wahren berechtigt sein, und wir können in der drohenden Haltung, welche Oesterreich plötzlich gegen uns annimmt, nur einen neuen und überzeugenden Beweis einer Gesinnung gegen uns erblicken, welche nur auf einen günstigen Augenblick wartet, um ihren Ausdruck in Thaten zu finden. Bisher haben wir auch nicht den entferntesten Anfang zu Gegen-Rüstungen gemacht, keinen Mann eingezogen, keine Truppen dislocirt, keine Vorbereitungen getroffen. Aber wir werden, Angesichts der Oesterreichischen Aufstellungen, nun auch unsererseits nicht länger zögern dürfen, damit die Situation von 1850 sich nicht wiederhole, wo eine schlagfertige Oesterreichische Armee drohend an unserer Grenze stand, bevor wir gerüstet waren. Die Behauptung, dass Oesterreichs jetzige Rüstung nur der Defensive gelte, kann uns über ihren drohenden Charakter nicht beruhigen, da von uns keine einzige Massregel ergriffen war, welche Oesterreich hätte veranlassen können, an seine Vertheidigung zu denken. Wir befürchten, dass die Sprache Oesterreichs sich ändern würde, so bald ein entscheidender Vorsprung in den Rüstungen ihm eine Ueberlegenheit gäbe. Wenn wir daher nunmehr auch Rüstungen anordnen müssen, so werden wir mit mehr Recht als Oesterreich behaupten können, dass sie einen rein defensiven Charakter tragen und nur durch Oesterreichs unerklärte Rüstungen hervorgerufen sind. Wenn durch dieses Gegenüberstehen von Kriegsheeren die Situation gespannter und die Gefahr eines Conflicts grösser wird, so werden nicht wir es sein, welche deshalb ein Vorwurf treffen kann. Denn wir können nicht zugeben, dass Schlesien von Krakau bis zur Sächsischen Grenze mit kriegsbereiten Truppen umstellt werde, ohne dass wir Massregeln zum Schutze des Landes treffen. ¶ Ew. . . . habe ich in dem gegenwärtigen Augenblick nicht unterlassen dürfen diese Erläuterungen zu geben, und ich ersuche Sie ergebenst, Sich in demselben Falle gegen die Regierung, bei welcher Sie beglaubigt zu sein die Ehre haben, auszusprechen, damit die Vorbereitungen, zu denen nun auch wir zu schreiten genöthigt sein werden, in richtigem Lichte aufgefasst werden. ¶ Aber Massregeln zu unserer augenblicklichen Sicherung sind nicht das Einzige, was die Situation von uns gebieterisch fordert. Die Erfahrung, welche wir wiederum über die Zuverlässigkeit eines Oesterreichischen Bündnisses und über die wahren Gesinnungen des Wiener Cabinets gegen uns gemacht haben, nöthigen uns, auch die Zukunft ins Auge zu fassen und uns nach Garantien umzusehen, welche uns die Sicherheit gewähren können, die wir in dem Bunde mit der andern Deutschen Grossmacht nicht nur vergebens gesucht haben, sondern sogar durch dieselbe bedroht sehen. Preussen ist durch seine Stellung, seinen Deutschen Charakter und durch die Deutsche Gesinnung seiner Fürsten vor Allem zunächst darauf angewiesen, diese Garantien in Deutschland selbst zu suchen. Auf dem Boden der Deutschen Nationalität und in einer Kräftigung der Bande, welche uns mit den übrigen Deutschen Staaten verbinden, dürfen wir hoffen und werden wir immer zuerst versuchen, die Sicherheit der nationalen Unabhängigkeit zu finden. ¶ Aber so oft wir

diesen Gedanken ins Auge fassen, drängt sich auch von Neuem die Erkenntniss auf, dass der Bund in seiner gegenwärtigen Gestalt, für jenen Zweck und für die active Politik, welche grosse Krisen jeden Augenblick fordern können, nicht ausreichend ist. Seine Einrichtungen waren darauf berechnet, dass die beiden Deutschen Grossmächte stets einig seien; sie haben bestehen können, so lange dieser Zustand durch eine fortgesetzte Nachgiebigkeit Preussens gegen Oesterreich erhalten wurde, einen ernsthaften Antagonismus der beiden Mächte können sie nicht ertragen, einen drohenden Bruch und Conflict nicht verhüten oder überwinden. Ja, wir haben die Erfahrung machen müssen, dass selbst da, wo die beiden Mächte einig waren, die Bundes-Institutionen nicht ausreichten, um Deutschland an einer activen, nationalen und erfolgreichen Politik Theil nehmen zu lassen. Dass auch das Bundes-Militärwesen nicht in einer, der Sicherheit Deutschlands genügenden Weise geordnet ist, haben wir wiederholt gegen unsere Genossen im Bunde ausgesprochen und uns vergeblich bemüht, es innerhalb der alten Bundesverhältnisse auf neuen, angemesseneren Grundlagen zu verbessern. Wir vermögen in der jetzigen Lage der Dinge uns das Vertrauen auf eine wirksame Hülfe des Bundes, im Falle wir angegriffen würden, nicht zu bewahren. Bei jedem Angriffe, sei es von Oesterreich, sei es von andern Mächten, werden wir immer zunächst auf unsere eigenen Kräfte angewiesen sein, wenn nicht ein besonders guter Wille einzelner Deutscher Regierungen zu unserer Unterstützung Mittel in Bewegung setzte, welche auf dem gewöhnlichen bundesmässigen Wege viel zu spät flüssig werden würden, um noch von Werth für uns zu sein. Wir sind gegenwärtig, gegenüber den drohenden Rüstungen Oesterreichs in der Lage, an unsere Genossen im Bunde die Frage zu richten, ob und in welchem Masse wir auf diesen guten Willen zählen dürfen? aber auch der vielleicht bei einigen unserer Bundesgenossen augenblicklich vorhandene gute Wille giebt uns für kommende Gefahren keine Beruhigung, weil bei der gegenwärtigen Lage des Bundes und dem Stande der Bundes-Militär-Verhältnisse die rechtliche oder thatsächliche Möglichkeit, ihn zu bethätigen, vielfach mangeln wird. ¶ Diese Erwägung und die abnorme Lage, in welche Preussen durch die feindselige Haltung der andern im Bunde befindlichen Grossmacht gebracht ist, drängt uns die Nothwendigkeit auf, eine den realen Verhältnissen Rechnung tragende Reform des Bundes in Anregung zu bringen. Das Bedürfniss derselben wird sich für uns um so dringlicher fühlbar machen, je weniger wir auf die eben gestellte Frage hinsichtlich des Beistandes, den wir zu gewärtigen haben, eine befriedigende Auskunft erlangen; abweisen aber können wir es in keinem Falle, und wir glauben in der That, dass wir dabei nicht nur in unserem eigenen Interesse handeln. Schon durch die geographische Lage wird das Interesse Preussens und Deutschlands identisch — dies gilt zu unsern, wie zu Deutschlands Gunsten. Wenn wir Deutschlands nicht sicher sind, ist unsere Stellung gerade wegen unserer geographischen Lage gefährdeter als die der meisten andern Europäischen Staaten; das Schicksal Preussens aber wird das Schicksal Deutschlands nach sich ziehen, und wir zweifeln nicht, dass, wenn Preussens Kraft einmal gebrochen wäre, Deutschland an der Politik der Europäischen Nationen nur noch passiv betheiligt bleiben würde. Dies zu verhüten, sollten alle Deutschen Regierungen

No. 2248. Preussen, 24. März 1866.

als eine heilige Pflicht ansehen, und dazu mit Preussen zusammenwirken. Wenn der Deutsche Bund in seiner jetzigen Gestalt und mit seinen jetzigen politischen und militärischen Einrichtungen den grossen Europäischen Krisen, die aus mehr als einer Ursache jeden Augenblick auftauchen können, entgegengehen soll, so ist nur zu sehr zu befürchten, dass er seiner Aufgabe erliegen und Deutschland vor dem Schicksale Polens nicht schützen werde. ¶ Wir ersuchen die . . . . . Regierung auch ihrerseits, die Verhältnisse ernstlich und eingehend in Erwägung zu ziehen, und behalten wir uns baldige weitere Eröffnungen in dieser Richtung vor. Zunächst aber haben wir von derselben eine Beantwortung der oben angedeuteten Frage zu erbitten, ob und in welchem Masse wir auf ihre Unterstützung in dem Falle zu rechnen haben, dass wir von Oesterreich angegriffen oder durch unzweideutige Drohungen zum Kriege genöthigt werden? ¶ Eure . . . . . ersuche ich ergebenst, diese Frage, begleitet von den in gegenwärtigem Erlass entwickelten Betrachtungen, welche Sie zu dem Ende vorzulesen ermächtigt sind, dem Vertreter der dortigen Regierung mündlich aber amtlich vorzulegen. ¶ Ueber die Aufnahme, welche die Eröffnung gefunden haben wird, sehe ich Ihrem schleunigen Berichte entgegen.

v. Bismarck.

No. 2249.

ÖSTERREICH. — Ges. in Berlin a. d. Kön. Preuss. Min. d. Ausw. — Verwahrung gegen den Verdacht eines beabsichtigten Friedensbruchs durch Oesterreich. —

Berlin, 31. März 1866.

No. 2249. Oesterreich, 31. März 1866.

Es ist zur Kenntniss des Oesterreichischen Cabinets gekommen, dass die Regierung Sr. M. des Königs von Preussen, um die Verantwortlichkeit für die entstandenen Besorgnisse einer Gefährdung des Friedens von sich abzulehnen, dem Kaiserlichen Hofe feindselige Absichten beigemessen, ja sogar auf die Eventualität einer Bedrohung der Preussischen Monarchie durch eine Offensive Oesterreichs hingewiesen habe. ¶ Wiewohl die Grundlosigkeit einer solchen Unterstellung in Europa notorisch ist, so muss die Regierung des Kaisers demungeachtet Werth darauf legen, gegenüber dem Königlichen Cabinet sich ausdrücklich gegen eine mit der Evidenz der Thatsachen so vollkommen unvereinbare Beschuldigung zu verwahren. Der Unterzeichnete etc. etc. hat demgemäss den Auftrag erhalten, Sr. etc. etc. Herrn Grafen Bismarck in aller Form zu erklären, dass den Absichten des Kaisers nichts ferner liege, als ein offensives Auftreten gegen Preussen. Nicht nur die so vielfach durch Wort und That erwiesenen freundschaftlichen Gesinnungen des Kaisers für die Person des Königs, wie für den Preussischen Staat schliessen jede solche Absicht entschieden aus, sondern der Kaiser erinnert sich auch der Pflichten, welche Oesterreich sowohl als Preussen feierlich durch den Deutschen Bundesvertrag übernommen haben. S. M. der Kaiser ist fest entschlossen, Seinerseits Sich nicht in Widerspruch mit den Bestimmungen des Artikels XI der Bundesacte zu setzen, welche es den

Mitgliedern des Bundes verbieten, ihre Streitigkeiten mit Gewalt zu verfolgen. Indem der Unterzeichnete den Kön. Herrn Ministerpräsidenten Grafen Bismarck ersucht, dem Könige, seinem erhabenen Herrn, die gegenwärtige Note zu unterlegen, hat er den Ausdruck der Hoffnung hinzuzufügen, das Königl. Cabinet werde sich bewogen finden, eben so bestimmt und unzweideutig, wie er solches Namens seiner Allerhöchsten Regierung gethan, den Verdacht eines beabsichtigten Friedensbruches zurückzuweisen und dadurch jenes allgemeine Vertrauen auf die Erhaltung des inneren Friedens Deutschlands, welches niemals sollte gestört werden können, wieder herzustellen. ¶ Der Unterzeichnete beehrt sich auch bei diesem Anlasse, etc.

Karolyi.

No. 2249. Oesterreich, 31. März 1866.

No. 2250.

BAYERN. — Min. d. Ausw. an die Kön. Ges. in Wien und Berlin. — Die zwischen Oesterreich und Preussen schwebenden Differenzen und die Beilegung derselben betr. —

No. 2250. Bayern, 31. März 1866.

Hochgeborner Graf! Die Differenzen, welche zwischen den Regierungen von Oesterreich und Preussen über den Vollzug der Convention von Gastein eingetreten sind, waren der Königl. Regierung bisher nur in vertraulicher Weise bekannt geworden, und diese hat daher auch nur in gleicher Weise gesucht, von ihrem Standpunkte aus auf deren Ausgleichung hinzuwirken, um so mehr, als sie nicht annehmen zu dürfen glaubte, dass den kriegerischen Agitationen der Presse irgend eine reelle Grundlage gegeben sei. ¶ Durch die Circulardepesche des Königl. Preussischen Herrn Ministerpräsidenten vom 24. d. M. und die auf Grund derselben von dem Königl. Preussischen Herrn Gesandten zwar nur mündlich, aber amtlich an mich gerichtete Frage, über deren Stellung und Beantwortung ich Ew. etc. bereits Mittheilungen gemacht habe, ist es nun aber officiell zur Kenntniss der Königl. Regierung gekommen, dass zwischen den beiden ersten Bundesmächten Differenzen der ernstesten Art bestehen, dass zur Zeit keine Verhandlungen zur Ausgleichung derselben geführt werden, und dass die Austragung derselben durch Waffengewalt als eine nicht ferne liegende Möglichkeit in das Auge gefasst wird. ¶ Bei dieser Sachlage erachtet sich die Königl. Regierung ebenso berechtigt, als durch ihre Stellung im Bunde verpflichtet, aus ihrer bisherigen Zurückhaltung herauszutreten, und zur Erhaltung des Friedens im Bunde und zur Wahrung der schwerbedrohten Interessen Deutschlands sich mit voller Offenheit an die beiden ersten Bundesglieder zu wenden. ¶ Es bedarf wohl keiner weitläufigen Ausführung darüber, dass das Bundesrecht jeden Krieg zwischen Bundesgliedern schlechthin verbietet. Die Bestimmungen des Artikel XI der Bundesacte sind in dieser Hinsicht zu klar, um einen Zweifel zuzulassen, und schliessen eben so wie die Natur und der Zweck des Bundes die Möglichkeit aus, dass für Oesterreich und Preussen etwa um ihrer Stellung als Europäische Mächte willen eine Ausnahme hiervon zulässig wäre. Der Artikel XI der Bundesacte und Artikel 19 der Wiener Schlussacte zeichnen auch den Weg vor, auf welchem alle irgend denkbaren Differenzen zwischen Bundesglie-

No. 2250. Bayern, 31. März 1866.

dern ausgetragen und Thätlichkeiten zwischen denselben verhütet werden sollen. Es wird nicht bestritten werden können, dass ein Bundesglied, welches mit Umgehung dieses Weges zur Selbsthülfe schreiten und gegen ein anderes Bundesglied Krieg anfangen würde, als bundesbrüchig zu betrachten wäre. ¶ Nicht minder als die Grundsätze des Bundesrechtes stehen aber die heiligsten Güter der Nation und alle Lebensinteressen sämmtlicher Bundesglieder einem Kriege unter diesen gebieterisch entgegen. Nachdem die durch Jahrhunderte dauernden inneren Zerwürfnisse und Kämpfe das Deutsche Reich dem Untergange geweiht und alle seine Glieder in Erniedrigung und Elend gestürzt, den Deutschen Boden zum Schlachtfelde für fremde Heere, die Deutschen Stämme zu Gegenständen fremder Herrschsucht gemacht hatten, hat die begeisterte Einigung und Erhebung der Fürsten und Völker Deutschlands das fremde Joch gebrochen, und Recht, Ehre und Sitte der Heimath wieder hergestellt. Als Frucht des Sieges ist der Deutsche Bund begründet worden, und wie man auch über das Bedürfniss einer weiteren Ausbildung und Verbesserung seiner Verfassung und Einrichtungen denken mag, Niemand kann bestreiten, dass er über Deutschland einen Segen verbreitet hat, der vorher in der ganzen Deutschen Geschichte ohne Beispiel war. Fünfzig Jahre des inneren Friedens, fünfzig Jahre, in denen Niemand gewagt hat, Deutschland anzugreifen, in denen kein fremdes Heer den Deutschen Boden betrat, fünfzig Jahre der Entwicklung und Blüthe aller geistigen, sittlichen und materiellen Kräfte und Interessen, welche endlich die Wunden des dreissigjährigen und der späteren Kriege heilten und Deutschland wieder auf die Höhe hoben, von welcher eigene Schuld es gestürzt hatte — das sind die Folgen des Deutschen Bundes, das sind die Verdienste Oesterreichs und Preussens, der beiden Grundpfeiler des Bundes, um die Deutsche Nation! ¶ Und dieser Bund sollte jetzt gebrochen, dieser stolze und edle Bau sollte zertrümmert, Deutschland sollte wieder dem alten Elende Preis gegeben werden? Wieder sollten die Deutschen Stämme in brudermörderischem Kampfe verbluten, um abermals unfehlbar die Beute des Auslandes zu werden? Oder zweifelt man etwa daran, dass dies die unabwendbare Folge eines solchen Krieges sein würde, dass Sieger und Besiegte gleichmässig sich den Frieden und seine Bedingungen von fremden Mächten müssten vorschreiben lassen, und dass diesen allein die Früchte davon zufallen würden? ¶ Wahrlich, wer die Schuld an solchem Kriege trüge, den würde sehr bald das eigene Gewissen richten, ehe noch die Geschichte ihr unbestechliches Urtheil über ihn spräche. ¶ Wenn nun aber gleichwohl die Möglichkeit eines Krieges zwischen Oesterreich und Preussen so ernstlich in's Auge gefasst wird, als es in der Preussischen Circulardepesche vom 24. d. M. geschehen ist, so ist man berechtigt, zu fragen, welcher Grund und Zweck den obigen Gründen des Rechtes und der heiligsten Interessen gegenüber in die Wagschale gelegt werden kann, und ob sich keine Wege der Verständigung mehr darbieten. ¶ In den Differenzen über die Ausführung der Convention von Gastein kann jener Grund unmöglich liegen. Diese Convention sollte ja nur einen vorübergehenden Zustand herbeiführen, und um einiger Irrungen in der provisorischen Verwaltung Holsteins willen den Deutschen Bund zu sprengen und Deutschland in Bürgerkrieg zu stürzen, — dazu wird sich wohl Niemand ent-

schliessen oder bekennen, wäre er auch noch so sehr gewillt, seine besonderen Wünsche und Interessen über alle anderen Rücksichten zu stellen. ¶ Diese Differenzen müssen sich in der That durch Verhandlungen zwischen den beiden Contrahenten von Gastein lösen lassen, oder durch Herstellung einer definitiven Ordnung ihre Bedeutung verlieren. ¶ Aber auch in dieser definitiven Entscheidung über das Schicksal der Elbherzogthümer kann der Grund und Zweck des Krieges nicht gefunden werden. Denn hierüber ist ja bis jetzt allem Anscheine nach unter den beiden im Mitbesitze befindlichen Mächten noch gar nicht verhandelt worden. Solche Verhandlungen zu eröffnen, und der Bundesversammlung die ihr unzweifelhaft zustehende Betheiligung an der Entscheidung nicht vorzuenthalten, erscheint daher als der sich von selbst darbietende Weg, wenn nicht der Krieg aus ganz anderen Beweggründen gewollt wird. ¶ Demnach kann eine eingehende Erwägung der Sachlage sich kaum der Ueberzeugung entschlagen, dass die Kriegsgefahr aus einem Missbehagen über die ganze Gestaltung der Bundesverhältnisse und die Stellung der beiden ersten Bundesglieder zu einander und zum Bunde hervorgehe, und in der That deutet die Preussische Circulardepesche vom 24. d. M. darauf hin. Wenn dem aber so ist, wenn die Kriegsgefahr als Ausdruck des Revisionsbedürfnisses der Bundesverfassung sich darstellt, so ist es doch in keiner Weise zu rechtfertigen, wenn zum Zwecke der Verbesserung das Mittel der Vernichtung, und zwar in der verderblichsten Weise, gewählt werden will. ¶ Sollte eine der beiden ersten Bundesmächte es wirklich für unerträglich halten, ferner Mitglied des Bundes in seiner jetzigen Gestalt zu sein, so wäre ja doch vor Allem die Frage zu stellen, ob denn nicht eine Umgestaltung des Bundes zu erreichen sei. Die Königl. Regierung zweifelt nicht, dass alle Bundesglieder bereit sind, sofort auf Verhandlungen zu diesem Zwecke einzugehen, und in diejenigen Aenderungen der Bundesverfassung zu willigen, welche den Zeitverhältnissen entsprechen. Für sich selbst erklärt sie dies hiermit auf das Bestimmteste, sei es nun, dass die Anregung hierzu sofort im Schoosse der Bundesversammlung gegeben werden, oder dass vertrauliche vorbereitende Verhandlungen unter den Cabinetten eingeleitet werden wollen. ¶ Aus diesen Erwägungen wendet sich die Königl. Regierung in ganz gleicher Weise an die Regierungen der beiden ersten Bundesglieder und stellt an jede derselben das Ersuchen, ihr auszusprechen, dass sie sich jedes gewaltsamen Angriffes auf andere Bundesglieder unbedingt enthalten werde, dass sie vielmehr bereit sei, sofort in Verhandlungen zur Wahrung des Friedens im Bunde einzutreten, und zugleich ihr den Weg und die Art der Verhandlungen zu bezeichnen, denen sie den Vorzug giebt. ¶ Ich beauftragte Ew. etc., gegenwärtigen Erlass zur Kenntniss des Herrn ad 1) Grafen von Mensdorff, ad 2) Grafen von Bismarck zu bringen, demselben auch Abschrift davon zu übergeben. ¶ Indem ich Ihrem baldigen Berichte über den Vollzug dieses Auftrages entgegensehe, füge ich den Ausdruck meiner ausgezeichnetsten Hochachtung bei.

München, 31. März 1866.

Freiherr *v. d. Pfordten.*

An Seine des Königl. Gesandten etc. Herrn Grafen v. **Bray-Steinburg**, Excellenz in *Wien*. — Herrn Grafen v. **Montgelas**, Hochgeboren in *Berlin*.

No. 2251.

PREUSSEN. — Ges. in Wien a. d. K. K. Oesterr. Min. d. Ausw. — Antwort auf die Oesterr. Note vom 31. März 1866 (N. 2249).

Wien, den 6. April 1866.

No. 2251. Preussen, 6. April 1866.

Der Unterzeichnete Königl. Preussische Gesandte und bevollmächtigte Minister ist von seiner Regierung beauftragt, dem Kaiserl. Oesterreichischen Minister des Kaiserl. Hauses und der auswärtigen Angelegenheiten Hrn. Grafen v. Mensdorff den Empfang der Eröffnung anzuzeigen, welche der Kaiserl. Gesandte in Berlin dem Minister-Präsidenten und Minister der auswärtigen Angelegenheiten, Grafen v. Bismarck, mittelst Note vom 31. März gemacht hat. Der Minister-Präsident hat nicht gesäumt, diese Note, dem darin ausgesprochenen Wunsche gemäss, Sr. Majestät dem Könige, seinem allergnädigsten Herrn, vorzulegen, und der Unterzeichnete ist mit Bezug darauf angewiesen, an den Hrn. Grafen v. Mensdorff die folgenden Bemerkungen zu richten: ¶ Die Besorgnisse einer Gefährdung des Friedens sind ausschliesslich der Thatsache entsprungen, dass Oesterreich, ohne erkennbaren Anlass, seit dem 13. v. M. begonnen hat, beträchtliche Streitkräfte in drohender Weise gegen die Preussische Grenze vorzuschieben. Irgend welche Aufklärung über die Motive dieses befremdlichen Verfahrens hat die Kaiserliche Regierung nicht gegeben; denn der Behauptung, dass die Judenkrawalle diese Rüstungen nöthig gemacht hätten, steht der Umfang der letzteren eben so entgegen, wie die Localität der Rüstungen der Aufstellung der herbeigezogenen Verstärkungen an der Sächsischen und Preussischen Grenze, wo die Sicherheit der Juden niemals gefährdet war. Hätte Oesterreich sich von Preussen bedroht geglaubt, so durfte nach den in der Note des Grafen Karolyi ausgesprochenen Gesinnungen, um so sicherer erwartet werden, dass das Wiener Cabinet die bedrohlich erscheinenden Thatsachen mit Bezug auf Artikel 11 der Bundes-Acte dem Deutschen Bunde angezeigt, oder doch wenigstens zur Kenntniss der Königlichen Regierung gebracht haben würde. Statt dessen vermissen wir noch heute jeden Versuch, den angeblich defensiven Charakter der Oesterreichischen Rüstungen durch Angabe irgend welchen Anzeichens einer Gefahr, gegen welche die Vertheidigung sich richten sollte, zu rechtfertigen. Das Geheimniss, mit welchem die Rüstungen Oesterreichs umgeben wurden, und das Bestreben, ihren der Königlichen Regierung wohlbekannten Umfang geringer erscheinen zu lassen, als er ist, haben den an sich natürlichen Eindruck nur verstärken können, dass die seit zwei Wochen täglich vermehrten Kaiserlichen Truppen an der Nordgrenze Oesterreichs zu einer offensiven feindlichen Unternehmung gegen Preussen bestimmt seien. Dennoch hat die Königliche Regierung 14 Tage lang bis zum 28. v. M. mit der Anordnung von Vertheidigungsmassregeln gezögert, weil der König, des Unterzeichneten allergnädigster Herr, voraussah, dass die Anhäufung gegenüberstehender Streitkräfte den Frieden ernster gefährden werde, als es bis dahin durch diplomatischen Schriftwechsel hatte geschehen können. Erst als, vermöge der Zahl und der Stellung der Oesterreichischen Truppen an der Böhmischen Grenze, die Sicherheit Preussischer Landestheile von den Entschliessungen des Wiener

Cabinets abhängig zu werden drohte, hat S. Majestät Massregeln zum Schutze des Landes angeordnet, und gleichzeitig Act davon genommen, dass es die Kaiserlich Oesterreichische Regierung war, welche aus bisher unaufgeklärten Beweggründen durch militärische Bedrohung der Preussischen Grenze einen Zustand der Spannung schuf, von dem bis dahin in der Politik und in dem Verkehrsleben Europas jedes Anzeichen gefehlt hatte, und für welchen die K. Regierung die Verantwortung durchaus von sich weisen muss. Hatte die Kaiserliche Regierung wirklich nicht die Absicht, Preussen anzugreifen, so vermag die Königliche Regierung nicht einzusehen, weshalb Oesterreich jene kriegerischen Massregeln ergriff. ¶ Wie der Unterzeichnete den jedes Grundes entbehrenden Verdacht einer von Preussen beabsichtigten Friedensstörung in der bisherigen Lage bestimmt zurückweist, so ist derselbe angewiesen, Sr. Excellenz dem Hrn. Grafen v. Mensdorff in aller Form zu erklären, dass den Absichten Sr. Majestät des Königs nichts ferner liegt, als ein Angriffskrieg gegen Oesterreich. ¶ An den persönlichen Gesinnungen Sr. Majestät des Kaisers hat der König, des Unterzeichneten allergnädigster Herr, um so weniger zweifeln können, als Allerhöchstderselbe diese Gesinnungen durchaus erwidert und die eigenen freundschaftlichen Gefühle für S. Majestät von den politischen Verhältnissen unberührt zu erhalten wissen wird. Den wohlwollenden Gesinnungen, welche S. Majestät den Kaiser für den Preussischen Staat beseelen, durch Handlungen Ausdruck zu geben, dürfte es der Kaiserlichen Regierung nicht an Gelegenheit fehlen. ¶ Indem der, etc.

No. 2251. Preussen, 6. April 1866.

Frh. v. *Werther.*

An S. Excellenz den Hrn. Grafen v. **Mensdorff.**

No. 2252.

SACHSEN. — Min. d. Ausw. an den Kön. Ges. in Berlin. — Antwort auf die Preuss. Circulardepesche vom 24. März 1866 (No. 2248.) —

Dresden, den 6. April 1866.

No. 2252. Sachsen, 6. April 1866.

Durch meine Depesche vom 26. v. M. benachrichtigte ich Ew. etc. davon, dass der Königl. Preussische Gesandte mir Tags zuvor eine Circulardepesche seiner höchsten Regierung vorgelesen, und zugleich davon, welche Antwort ich demselben ertheilt habe. Ich bemerkte dabei, dass ich ausdrücklich gebeten habe, diese meine Erwiederung als eine persönliche anzusehen, da ich auf ein mir nur durch Vorlesen mitgetheiltes Schriftstück von solcher Wichtigkeit eine Antwort der Regierung nicht geben könne. ¶ Einige Tage später hat Herr von der Schulenburg, in Folge erhaltener Ermächtigung, mir jene Circulardepesche in Händen gelassen. Obschon ich nun in der Lage war, die ihm ertheilte Antwort mündlich als eine solche zu wiederholen, welche allerhöchsten Orts Billigung erlangt habe, so finde ich doch in der erfolgten schriftlichen Mittheilung, namentlich aber in dem Umstande, dass der Erlass der Königl. Preuss. Regierung der Oeffentlichkeit übergeben worden ist, einen bestimmenden Anlass, die diesseitige Erwiederung in schriftlicher Form durch Ew. etc Vermittlung an das Berliner Cabinet gelangen zu lassen. Ich glaube aber hierbei mich nicht

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auf eine abermalige Beantwortung der am Schlusse der Circulardepesche gestellten Frage beschränken, sondern auch auf die vorausgeschickten Entwickelungen eingehen zu sollen, indem ich voraussetzen darf, dass es nicht die Absicht der Königl. Preussischen Regierung sein könne, ihre Ansichten den Deutschen Bundesregierungen darzulegen, ohne den Wunsch damit zu verbinden, auch die ihrigen kennen zu lernen. ¶ Es handelt sich zunächst um Differenzen, welche zwischen den hohen Regierungen von Oesterreich und Preussen in Folge der Gasteiner Convention entstanden sind. Da bei diesem Uebereinkommen weder der Bund noch die einzelnen Bundesregierungen, mit Ausnahme der hohen Contrahenten, betheiligt sind, so würde ich gern vermeiden, mit diesem Gegenstande mich zu befassen. Allein die an uns gerichtete Darstellung berührt damit zugleich die Frage der Elb-Herzogthümer überhaupt und da diese fortwährend dem Bunde zuständig ist, so halten wir es für geboten, so oft wir zu einer Meinungsäusserung darüber veranlasst werden, unsere Ansicht offen zu bekennen und dem Bunde durch unser Schweigen nichts zu vergeben. Ich werde mich indessen hierbei auf das Unvermeidliche beschränken und zunächst daran erinnern, dass Oesterreich, welches, wie uns gesagt wird, die Ansprüche des Erbprinzen von Augustenburg früher entschieden bestritten haben soll, auf der Londoner Conferenz in Uebereinstimmung mit Preussen und dem Deutschen Bunde diesen Fürsten als denjenigen bezeichnet hat, welcher die meisten Rechte geltend zu machen habe. Ich erlaube mir alsdann die Stelle hervorzuheben, welche die Herzogthümer als ein Oesterreich und Preussen gehöriges Land bezeichnet. Der Königl. Preussischen Regierung ist nicht unbekannt, dass die diesseitige Regierung einer abweichenden Ansicht huldigt und damit nicht einen vereinzelten Standpunkt unter den Deutschen Regierungen einnimmt. Ich verzichte gern darauf, in eine nähere Begründung dieser Anschauung einzugehen, ich begnüge mich vielmehr an die Eröffnung zu erinnern, welche die hohen Regierungen von Oesterreich und Preussen der Bundesversammlung zu machen geneigten, als dieselben, bald nachdem sie den Wiener Frieden beim Bunde zur Anzeige gebracht, die Zurückziehung der Bundestruppen aus Holstein und Lauenburg beantragten. Laut Protokoll der 44. Bundestagssitzung von 1864 bezog sich Oesterreich „auf seine in der letzten Sitzung aus Anlass der Vorlage des Friedensvertrags mit Dänemark in Betreff des Art. 3 desselben abgegebene Erklärung, wonach die Kaiserl. Regierung von der mit der Königl. Preussischen Regierung behufs einer den Rechten und Interessen des Bundes entsprechenden Lösung der Hauptfrage eingeleiteten Verhandlungen ein günstiges Ergebniss erhoffe“, wogegen Preussen, „unter Bezugnahme auf diese Erklärung und in Ergänzung derselben, die Erklärung hinzufügte, dass auch die Königl. Preussische Regierung mit Befriedigung durch den Abschluss des Friedens die Möglichkeit gegeben finde, durch Verhandlungen der beiden Mächte unter einander und mit den Prätendenten die definitive Lösung der streitigen Frage herbeizuführen. Es ist seitdem weder zur Kenntniss des Bundes, noch der einzelnen Regierungen gekommen, dass die beiden hohen Regierungen jener Hoffnung entsagt haben, der Bund ist vielmehr auf diese Hoffnung stets hingewiesen geblieben, und jedenfalls wäre zu jener Erklärung kein Anlass

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geboten gewesen, wenn die beiden hohen Regierungen die Herzogthümer als ein ihnen gehöriges betrachtet hätten. ¶ Der gegenwärtige Erlass der Königlich Preussischen Regierung weist uns nun ferner auf die Oesterreichischen Kriegsrüstungen und auf die dadurch herbeigeführte Bedrohung Preussens hin. Es gereicht mir zu nicht geringer Befriedigung, eines näheren Eingehens auf diesen Theil der Mittheilung durch die unterm 31. v. M. durch den Kaiserl. Gesandten zu Berlin übergebene Note enthoben zu sein, welche auf das feierlichste und bestimmteste jede aggressive Absicht Oesterreichs, an die wir auch zuvor zu glauben nicht Ursache hatten, verneint und ausser Betracht stellt, dabei zugleich die strenge Beobachtung der jede Selbsthülfe ausschliessenden Bestimmung der Bundesgrundgesetze seitens Oesterreichs verbürgt. Es erübrigt uns sonach nur die vertrauensvolle Erwartung auszusprechen, dass eine den Bundesfrieden in gleicher Weise sicherstellende Erklärung der Königl. Preussischen Regierung jener Kundgebung zur Seite treten und dass eine beiderseitige Einstellung kriegerischer Vorbereitungen einem Zustande der Beunruhigung bald ein Ende machen möge, welcher bereits schwer auf die Verkehrs- und Erwerbsverhältnisse zu drücken beginnt und welcher bei längerer Dauer auch den übrigen Regierungen im Hinblick auf ihre Bundespflicht lästige Verpflichtungen auferlegen müsste. ¶ Bei dieser augenblicklichen Lage der Dinge könnte vielleicht das, was ich in Bezug auf den letzten Theil des Erlasses zu sagen hätte, in das theoretische Gebiet verwiesen und daher als entbehrlich bezeichnet werden. Allein eine unbefangene Erwägung lässt erkennen, dass es sich hier um Fragen von sehr praktischer Bedeutung handelt, deren Erörterung auszuweichen nicht erlaubt ist. ¶ Die Einrichtungen des Bundes, so wird uns gesagt, können einen ernsten Antagonismus zwischen Oesterreich und Preussen nicht ertragen. Sie waren nur haltbar durch ein Dank der Nachgiebigkeit Preussens lange Zeit hindurch erreichtes Zusammengehen beider Mächte. Es kommt uns nicht zu, diese letztere Betrachtung einer Erörterung zu unterziehen und dabei einen Rückblick auf die nächste Vergangenheit zu werfen. Allein die Frage ist wohl gestattet, wie es möglich sein soll, eine solche Einrichtung zu treffen, welche bei Erhaltung des Bundes den Nachtheilen eines solchen Antagonismus seiner beiden mächtigsten Glieder vorbeugen kann? Wir würden uns wohl Einrichtungen zu denken vermögen, welche dieser bedauerlichen Eventualität besser als die jetzigen begegnen könnten, wir halten jedoch mit diesem Gedanken zurück, da auch der Erlass der Königl. Preuss. Regierung sich über das, was geschehen soll, nicht ausspricht. Aber keine Art der Bundesverfassung wird die Möglichkeit jenes Antagonismus und dessen nachtheilige Folgen ganz ausschliessen können, so lange beide Mächte eine vereinte Aufgabe in Deutschland vor sich haben, und der Gedanke, jeder derselben etwa eine gesonderte Sphäre des Machteinflusses zuzuweisen, müsste gerade durch diejenigen lehrreichen Erfahrungen zurückgedrängt werden, welche zu den uns kundgegebenen Zwistigkeiten und zu dem uns vorliegenden Erlasse der Königl. Preuss. Regierung den nächsten Anlass gegeben haben. ¶ So wenig wir auch die Mängel der bestehenden Bundesverfassung verkennen, so vermöchten wir doch einem so verdammenden Urtheile, wie der Erlass vom 24. März es ausspricht, nicht beizupflichten. Wir sind der Meinung, dass die gemachten Er-

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fahrungen bei einem solchen Urtheil schwerer ins Gewicht fallen müssen, als Voraussetzungen und Besorgnisse, mögen diese noch so sehr einer aufrichtigen Ueberzeugung entspringen. Wenn wir daher auch gern zugestehen, dass das Bundesmilitärwesen mit Rücksicht auf die Sicherheit Deutschlands noch mehrerer Verbesserung fähig sei, so dürfen wir doch andererseits nicht vergessen, dass die Sicherheit Deutschlands seit dem Bestehen des Deutschen Bundes noch nie gefährdet worden ist, in einem Zeitraume von mehr als 50 Jahren, binnen welchem rings umher Umwälzungen und Kriegsereignisse eintraten. Und Preussen, so dürfen wir fragen, hat wohl gerade Preussen Ursache, durch die Bundesverfassung in militärischer Beziehung sich beschwert zu finden? Kann wohl die ausgesprochene Voraussetzung, „Preussen werde bei jedem Angriff, sei es von Oesterreich, sei es von andern Mächten, immer zunächst auf seine eigenen Kräfte angewiesen sein", eine geschichtlich begründete genannt werden? Wo sind die Erfahrungen, die dafür zeugen? Der drohende innere Conflict des Jahres 1850 kann hier nicht als Beleg angerufen werden, denn damals war ja eben jene mangelhafte Bundesverfassung von einem Theile der Bundesgenossen ausser Wirksamkeit gesetzt, und Preussen konnte nicht für sich die Wohlthaten einer Bundesverfassung erwarten, die es selbst augenblicklich nicht mehr anerkannte. Aber so oft für Preussen vom Auslande her Verwickelungen in Aussicht standen, hat seine Regierung wohl je Ursache gehabt, über die Haltung des Bundes zu klagen? War nicht alles bereit, Preussen zu unterstützen, als im Jahre 1840 die Rheingrenze und die Rheinlande bedroht erschienen? War der Bund nicht im besten Vernehmen mit Preussen während des orientalischen Krieges? War der Bund nicht zur Verfügung Preussens, als dieses während des Italienischen Krieges sich anschickte, activ einzutreten? Und hätte der von Oesterreich und Preussen gegen Dänemark geführte Krieg zu einer Einmischung der grossen Mächte geführt, hegt wohl irgendjemand einen Zweifel, dass dann der Bund mit Aufbietung aller Kräfte eingetreten sein würde zur Unterstützung der beiden Deutschen Mächte, die ja einen nationalen Krieg unternommen und ihn ja für die Rechte des Bundes zu unternehmen erklärt hatten! ¶ Das bestehende Verhältniss müsste, so sollte man nach der Darstellung des Erlasses glauben, ein für Preussen sehr unvortheilhaftes sein. Gleichwohl ist es ein gerade für diese Macht entschieden vortheilhaftes, welches, indem es Preussen die Freiheit seiner politischen Action nicht beengt, den Bund den Folgen dieser Action untergeordnet hat. Wie manche Deutsche Regierung konnte sich im Jahre 1840 die Frage vorlegen, ob die Bekämpfung der Aegyptischen Unabhängigkeit ein Deutsches Interesse sei und wie denn der Bund dazu komme, durch eine ihm fremde Abmachung über eine ihm fremde Frage einem Kriege ausgesetzt zu werden. Und ist nicht in einer neuern Zeit, die dem Ausbruche des Deutsch-Dänischen Krieges unmittelbar vorausging, der Deutsche Bund wiederum der Gefahr ausgesetzt gewesen, den Rhein vertheidigen zu müssen, weil ohne sein Wissen und Mitwirken Preussen im Osten Verpflichtungen eingegangen war, die ihm einen Angriff von Westen her leicht zuziehen konnten? Gleiche Gefahr wird und wurde weder Preussen, noch Oesterreich durch die übrigen Bundesglieder je bereitet (wir würden wenigstens begierig

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sein, ein Beispiel davon zu vernehmen), und so wenig die letztern daran denken, sich den aus diesem ungleichen Verhältnisse entspringenden Verpflichtungen zu entziehen, so ist es doch gewiss hier am Orte, darauf hinzuweisen, auf welcher Seite die Begünstigung und auf welcher die Belastung zu suchen sei. ¶ Wenn der Erlass vom 24. März uns daran erinnert, dass das Interesse Deutschlands und Preussens identisch sei, so wird gewiss keine Deutsche Regierung dieser Auffassung widersprechen. ¶ Wenn er ferner die Lage Preussens als eine gefährdete bezeichnet, sofern es nicht Deutschlands sicher sei, so dürfen wir aus dieser Aeusserung die beruhigende Ueberzeugung schöpfen, dass Preussen die Bedeutung Deutschlands für sich selbst in gleicher Weise anerkennt, als umgekehrt Deutschland das gleiche Gefühl in Bezug auf Preussen empfindet. Diese Gewissheit verhindert uns auch, mit ernstem Nachdenken uns solchen Möglichkeiten zuzuwenden, wie die der „gebrochenen Kraft Preussens" und „des Schicksals von Polen." ¶ Die Königlich Sächsische Regierung hat das Bedürfniss einer zeitgemässen Umgestaltung der Bundesverfassung wiederholt anerkannt und Versuchen, die zu diesem Zweck geschehen, sich eifrig angeschlossen. ¶ Die Königlich Sächsische Regierung wird auch ferner sich einer gemeinsamen Berathung und Förderung dieser wichtigen Frage nicht entziehen. Allein, wir halten es für Pflicht, die Ueberzeugung hier nochmals laut werden zu lassen, die ich gegen Herrn v. d. Schulenburg auf seine erste Mittheilung aussprach. Der Augenblick des häuslichen Zwistes ist nicht der, wo die Familie ein neues Haus baut. Man gelangt dann rasch zum Einreissen des alten, aber nicht zum Aufführen eines neuen Hauses. Stände Deutschland einem Kriege mit dem Auslande gegenüber, dann allerdings könnte man hoffen, dass das Gefühl der gemeinsamen Gefahr und das Gefühl der gemeinsamen Pflicht allen Hader zurückdrängen und unter dem Drucke des Augenblicks etwas Lebensfähiges erzeugen werde. Aber Zustände, die einen inneren Krieg heraufzubeschwören drohen, geben dieser Hoffnung keinen Raum. Diese Zustände können die Gegensätze unter den Regierungen und den Parteien nur verschärfen und unter einem gewaltsamen Drucke zu Entwickelungen führen, die auch von Seiten der Mächtigen sich im Voraus nicht berechnen und noch weniger beherrschen lassen. ¶ Wir würden uns jedoch laut dagegen verwahren, wollte dieser Aeusserung die Absicht untergelegt werden, der Frage der Bundesreform auszuweichen. Wir sprechen damit eine wohlmeinende Warnung aus. Wird sie nicht beachtet, so werden wir in die Berathung und Behandlung der Frage mit ruhigem Gewissen, aber um so mehr mit dem vollen Nachdruck auch unserer Ueberzeugung und unserer Thätigkeit eintreten. ¶ Die jetzige Lage und die Beseitigung der Gefahren, welche der Erlass vom 24. März darin erblickt, erheischen nichts Anderes als die Anwendung der bestehenden Gesetze des Bundes, welche dem ernstlich bedrohten Bundesgliede die Unterstützung und Vertheidigung des Bundes in zweifelloser Weise gewährleisten. Die Antworten, welche, soviel hier bekannt, in Folge des Erlasses vom 24. März der Königlich Preussischen Regierung zugegangen sind, dürften in der That derselben die volle Beruhigung gegeben haben, dass sämmtliche Bundesglieder sich der aus jenen bundesgesetzlichen Bestimmungen für sie erwachsenden Pflichten vollständig bewusst sind

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und Preussen, wenn es angegriffen würde, auf deren Unterstützung zu rechnen haben werde. ¶ Aus dieser Auffassung der Verhältnisse ergab sich von selbst die Antwort, die ich mündlich Herrn v. d. Schulenburg zu ertheilen in dem Falle war und die ich schliesslich zu wiederholen nicht unterlassen will. Es möge der Königlich Preussischen Regierung gefallen, sich an den Bund zu wenden, dort wird die Königlich Sächsische Regierung den Bundesgesetzen gemäss dafür stimmen und danach handeln, dass dem Angreifer entgegengetreten werde. Dies ist die Erwiederung auf die erste Frage, was von uns zu erwarten sei, falls Preussen von Oesterreich angegriffen werde. Die zweite Frage hingegen, was man von uns zu erwarten, falls Preussen durch unzweideutige Drohung zum Kriege genöthigt werde, ist eine solche, die wir principiell nach den Bestimmungen der Bundesacte nicht als möglich, die aber, sobald sie einmal gestellt worden, wir als eine solche betrachten, die eine einzelne Regierung, dem Bunde vorgreifend, gar nicht entscheiden oder beantworten darf. ¶ Ew. etc. wollen gegenwärtige Depesche zur Kenntniss der Königlich Preussischen Regierung bringen.

v. Beust.

An den Königl. Gesandten Herrn Grafen v. **Hohenthal** in *Berlin*.

No. 2253.

ÖSTERREICH. — Min. d. Ausw. a. d. K. K. Oesterr. Ges. in Berlin. — Erwiederung auf die Preussische Note vom 6. April, die Rüstungen betr. —

Wien, den 7. April 1866.

No. 2253. Oesterreich, 7. April 1866.

Ich übersende Ew. im Anschlusse eine Abschrift der Note, mittelst welcher der K. Preuss. Gesandte Frhr. von Werther im Auftrage seines Hofes die von Ihnen am 31. v. Mts. an den Hrn. Grafen von Bismarck gerichtete Note beantwortet hat. ¶ Wenn das Cabinet von Berlin in jener Note dabei beharrt, die angeblichen Rüstungen Oesterreichs als die Ursache der entstandenen Kriegsbesorgnisse darzustellen, so zweifeln wir in der That, ob der Charakter der Würde, welcher von einer Verhandlung zwischen zwei grossen Mächten unzertrennlich sein soll, uns erlaube, diese Behauptung nochmals ausdrücklich zu widerlegen. Wir berufen uns ruhig auf das Urtheil der Welt über den Versuch, Oesterreich offensiver Absichten zu beschuldigen. Wäre die Note des Frhrn. v. Werther im Rechte, so müsste Europa während der letzten Monate in schwerem Traume befangen gewesen sein. Dass man in Preussen laut davon sprach, die Annexion der Herzogthümer müsse mit Güte oder mit Gewalt vollzogen werden, — dass am 26. Januar eine Depesche des Grafen Bismarck nach Wien abging, welche in allen Preuss. Regierungsorganen geflissentlich als der Vorbote des Bruches bezeichnet wurde, — dass nach unserer ablehnenden Antwort ausserordentliche Staatsberathungen unter Zuziehung hoher Militärs in Berlin stattfanden, — dass Massregeln zur Vorbereitung einer Mobilisirungsordre getroffen wurden, — dass Preussens erster Minister die Unvermeidlichkeit eines Krieges betonte, — dass er am 16. März die offene Frage Ew. etc., ob Preussen die

Gasteiner Convention gewaltsam zu lösen beabsichtige, mit einem Nein beantwortete, welches er selbst für werthlos und nichtig erklärte, — dass Preussen mit dem Florentiner Hofe über die Eventualität eines Krieges gegen Oesterreich unterhandelte, — dieses Alles müsste eitel Sinnentäuschung gewesen sein, und der Wirklichkeit müssten nur jene drohenden Oesterreichischen Heeresmassen angehören, welche sich seit dem 13. März — es ist das Preussische Cabinet selbst, welches dieses Datum anführt, — gegen die Preussische Grenze bewegt haben sollen! — ¶ Aber die Dinge sind vor Aller Augen anders verlaufen, und sie stehen noch heute anders. — ¶ Auf ausdrücklichen Befehl Sr. M. des Kaisers wiederhole ich hiermit die bestimmte Erklärung, d a s s i n O e s t e r r e i c h n o c h b i s z u m h e u t i g e n T a g e k e i n e d e r V e r f ü g u n g e n getroffen worden ist, welche nach unserer Heeresorganisation die Eröffnung eines grossen Krieges vorbereiten müssen. Es ist insbesondere keine irgend erhebliche Truppenconcentration, geschweige eine Aufstellung an der Grenze angeordnet worden, kein ungewöhnlicher Ankauf von Pferden, keine Einberufung von Urlaubern in nennenswerthem Umfange hat stattgefunden. Ja der Kaiser, unser a. g. Herr, ist in seiner Zuversicht so weit gegangen, dass S. Maj. mich ermächtigt hat, von denjenigen Dislocationen, welche in Wahrheit vorgenommen worden sind, dem K. Preuss. Gesandten ohne Rückhalt Mittheilung zu machen. Mit der vollsten Autorität hat daher Frhr. von Werther g e g r ü n d e t e Nachrichten über die diesseitigen militärischen Massregeln nach Berlin melden können. Die übrigen, aus welchen man den Alarmruf der Ansammlung einer Armee an der Nordgrenze Oesterreichs gemacht hat, muss ich mit grösster Entschiedenheit, wie ich es bereits wiederholt mündlich gegenüber dem Frhrn. v. Werther gethan, für wahrheitswidrig erklären. Jede Discussion über die Priorität militärischer Vorkehrungen in Oesterreich oder in Preussen ist endlich vollkommen überflüssig gemacht worden, durch das Wort des Kaisers, welches dafür, dass Oesterreich keinen Angriff im Sinne habe, mittelst der Note vom 31. März klar und bündig verpfändet worden ist. ¶ Eine analoge Versicherung, ebenso klar und bündig im Namen Sr. M. des Königs Wilhelm ertheilt, bedingt von selbst die beiderseitige Einstellung jeder weiteren Massregel von kriegerischer Bedeutung. ¶ Eine solche Versicherung haben wir deshalb zu erhalten gewünscht, und heute liegt wirklich, in Erwiderung auf die erwähnte Note, dem Kaiserl. Hofe die förmliche Erklärung vor, dass den Absichten Sr. M. des Königs nichts ferner liege, als ein Angriffskrieg gegen Oesterreich. ¶ Der Kaiser, unser a. g. Herr, hat auf diese Erklärung gehofft. S. M. nimmt dieselbe mit Vertrauen an. ¶ Ein Grund zu weiteren Rüstungen liegt sonach nicht mehr vor, und da in Oesterreich, wie ich im Vorstehenden erhärtet habe, keine Kriegsvorbereitungen im Gange sind, so müssen wir nunmehr der — in der Note des K. Preuss. Gesandten mit Bedauern von uns vermissten Nachricht entgegensehen, dass die in Preussen am 28. v. M. erlassene Mobilisirungsordre unausgeführt bleiben werde. Um eine beruhigende Mittheilung hierüber wollen Ew. unverweilt, da das Kais. Cabinet nach dem stattgehabten Noten-Austausche nicht ohne schwere Verantwortlichkeit gegen eine längere Fortsetzung der Rüstungen Preussens gleichgültig bleiben könnte, den Königl. Hrn. Ministerpräsidenten, welchem Sie die gegen-

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v. Mensdorff.

No. 2254.

PREUSSEN. — Min. d. Ausw. an den Königl. Ges. in Wien. — Entgegnung auf die Oesterr. Depesche vom 7. April (No. 2253), die Rüstungen betr. —

Berlin, den 15. April 1866.

No. 2254. Preussen, 15. April 1866. Die Note, welche Ew. etc. am 6. d. M. an den Kaiserl. Oesterreichischen Herrn Minister der auswärtigen Angelegenheiten gerichtet haben, hat dem Letzteren Veranlassung zu einer an den Kaiserl. Gesandten an unserm Allerhöchsten Hofe gerichteten Depesche gegeben, welche der Graf Károlyi in meinen Händen zu lassen beauftragt war, und von welcher Sie in der Anlage Abschrift finden. ¶ Ich will über die Form, in welcher diese Eröffnung gehalten ist, mit der kurzen Bemerkung hinweggehen, dass dieselbe schwer einen Schluss auf conciliante Absichten des Kaiserl. Cabinets zulässt. ¶ Wenn aber die Depesche den Zweck verfolgt, die Besorgnisse vor einer Störung des Friedens auf das Verhalten Preussens zurückzuführen, so darf ich wohl behaupten, dass selten so folgenschwere politische Acte auf ein künstlicheres Zusammenfügen von Voraussetzungen und Gerüchten begründet worden sind. Ich unterlasse es, über diese Motive etwas zu sagen. Aber ich kann nicht umhin, mein Bedauern darüber auszusprechen, dass die Oesterreichische Depesche in den Kreis sachlicher Erwägungen auch persönliche Aeusserungen gezogen hat, die ich mündlich gethan haben soll, und deren bei der Wiederholung von Mund zu Mund wachsende Ungenauigkeit sich constatiren lässt. Und wenn mir sogar das an sich unglaubliche Verfahren zugeschrieben wird, dass ich eine von mir eben gegebene amtliche Antwort gleichzeitig selbst als nichtig und werthlos erklärt hätte, so hat mich ein so unerwartetes Missverständniss um so mehr befremden müssen, als mir bekannt gewordene Aeusserungen Oesterreichischer Agenten im Gegentheil den befriedigenden Charakter jener meiner Antwort hervorgehoben haben. ¶ Wozu aber soll diese Zusammenstellung von Vermuthungen, Auslegungen, Gerüchten, Erzählungen dienen? Sie kann keinen anderen Grund haben, als das Bedürfniss, die Vorbereitungen Oesterreichs zu sehr ernsten Zwecken zu motiviren. ¶ Indess dieselbe Depesche erklärt, dass „keine der Verfügungen getroffen seien, welche nach der Oesterreichischen Heeresorganisation die Eröffnung eines grossen Krieges vorbereiten müssten.“ ¶ Das Urtheil darüber, was unter Vorbereitungen zu einem grossen Kriege zu verstehen ist, kann nach individueller Auffassung sehr verschieden sein, und ich muss daher lebhaft bedauern, dass die Depesche von den wirklich getroffenen Vorbereitungen nur in Ausdrücken redet, welche elastischer Natur und nicht geeignet sind, uns ein präcises Bild von dem wirklichen Thatbestande zu geben. „Keine irgend erhebliche Truppen-Concentration — keine Aufstellung an der Grenze — kein ungewöhnlicher Ankauf von Pferden — keine Einberufung von Ur-

laubern in nennenswerthem Umfange" — das sind Alles Ausdrücke von unbestimmter Tragweite und welche die Frage hervorrufen: was denn erheblich, was nennenswerth sei? Uns näher darüber zu informiren aber fehlen uns die Mittel, nachdem sogar den Oesterreichischen Blättern die Mittheilung militärischer Nachrichten untersagt worden ist. Dieser Geheimhaltung gegenüber will ich mich nur auf die, nach der Depesche „in Wahrheit vorgenommenen Dislocationen" und auf den von dem Herrn Grafen v. Mensdorff Ihnen wiederholt zugestandenen Charakter derselben beziehen, welcher in der Bewegung entfernter Truppenkörper nach der nordwestlichen Grenze und in einer Verlegung anderer in diejenigen unserer Grenze nahen Bezirke besteht, in welchen sie ihre Verstärkungsmittel, von denen sie bisher entfernt gewesen, vorfinden. Diese zugestandenen Thatsachen kann der Kaiserl. Herr Minister nicht, um seinen Ausdruck zu wiederholen, in das Gebiet „der Sinnestäuschungen" verweisen. Wir haben Angesichts derselben vierzehn Tage gewartet, ehe wir unsere nur partielle und rein defensive Massregeln ihnen gegenüber stellten. ¶ Von einer Zurücknahme der Oesterreichischen Massregeln, von einer Nicht-Ausführung der die Kriegsbereitschaft gegen uns fördernden Dislocationen ist trotz der denselben beigelegten Unerheblichkeit in der Depesche nicht die Rede. ¶ Es muss also der Kaiserl. Minister der auswärtigen Angelegenheiten diese Zurücknahme für überflüssig halten, nachdem das Wort Sr. Majestät des Kaisers dafür verpfändet sei, dass Oesterreich keinen Angriff im Sinne habe. Daraus wird folgen, dass Graf Mensdorff die in mehr oder weniger erheblichem oder nennenswerthem Grade getroffenen ungewöhnlichen militärischen Massregeln aufrecht erhalten will. Von Preussen aber verlangt man, dass neben dem eben so klaren und bündig gegebenen Worte Seiner Majestät des Königs die Anordnungen zurückgezogen und nicht ausgeführt werden, welche allein durch die bis jetzt in nichts veränderten Massregeln Oesterreichs hervorgerufen worden sind. Eine Mobilmachungs-Ordre für die Königl. Truppen ist überall nicht erlassen worden, wie ein Blick auf die mit voller Oeffentlichkeit getroffenen Anordnungen zeigt; diejenigen partiellen Vorsichtsmassregeln aber, durch welche wir nur den Oesterreichischen Vorbereitungen gleich zu kommen suchten, können nicht aufgehoben werden, so lange der Anlass dazu nicht beseitigt ist. An der Kaiserl. Regierung ist es also, die Initiative zu ergreifen, um ihrerseits die Dislocationen und verwandten Massregeln, mit denen sie zugestandenermassen vor irgend einer Andeutung Preussischer Rüstungen begonnen, rückgängig zu machen, also den *status quo ante* herzustellen, wenn sie die Gegenseitigkeit in den abgegebenen Erklärungen auch auf die thatsächlichen Verhältnisse angewendet zu sehen wünscht. Es geschieht auf Befehl Seiner Majestät des Königs, unseres Allergnädigsten Herrn, dass ich Ew. etc. hiermit ergebenst ersuche, dem Herrn Grafen Mensdorff auf das in der Depesche vom 7. d. M. gestellte Verlangen diese Antwort zu ertheilen. ¶ Diesem Allerhöchsten Auftrage wollen Ew. etc. gef. durch Vorlesung und Mittheilung einer Abschrift des gegenwärtigen Erlasses entsprechen. *v. Bismarck.*

Sr. Excellenz dem Herrn Freiherrn v. **Werther** in *Wien.*

No. 2255.

ÖSTERREICH. — Min. d. Ausw. an den Kaiserl. Ges. in Berlin. — Vorschlag zu beiderseitiger Abrüstung. —

Wien, 18. April 1866.

No. 2255. Oesterreich, 18. April 1866.

Erhaltenem Auftrage gemäss hat Freiherr v. Werther mir die abschriftlich anliegende Erwiederung des Königl. Preussischen Cabinets, dd. Berlin 15. d. M., auf die Depesche, die ich am 7. an Ew. . . zu richten die Ehre hatte, mitgetheilt. ¶ Wie dem Königl. Cabinette nicht entgangen sein wird, hat diese unsere Aeusserung vom 7. ihre wesentlichste Bedeutung von der Schlussfolgerung entlehnt, dass nach der von den beiden hohen Souverainen wechselseitig ertheilten Versicherung, keine Offensive zu beabsichtigen, jeder Grund für militärische Vorbereitungsmassregeln weggefallen und jede Erörterung über die Priorität der etwa bereits vorgenommenen Rüstungen müssig geworden sei. Die Rückäusserung des Herrn Grafen von Bismarck setzt demungeachtet diese Erörterung fort. S. Majestät der Kaiser, unser allergnädigster Herr, vermögen hierin nicht das richtige Mittel zu erblicken, zu der so nothwendigen Klärung der Sachlage zu gelangen, und Allerhöchstdieselben haben mich daher ermächtigt, den nachstehenden Vorschlag den Entschliessungen der Regierung Sr. Majestät des Königs von Preussen anheimzustellen. ¶ Dass in Oesterreich einzelne Truppendislocationen stattgefunden und mehrere Truppenkörper sich nach unserer nordwestlichen Grenze bewegt haben, ist der Königl. Regierung durch die ihr von mir selbst offen und direct gemachten Mittheilungen bekannt. S. Majestät der Kaiser erklären sich hiermit bereit, durch einen am 25. l. M. zu erlassenden Befehl diese, wie die Königl. Regierung glaubt, eine Kriegsbereitschaft gegen Preussen fördernden Dislocationen rückgängig zu machen, so wie die darauf bezüglichen Massregeln einzustellen, wenn S. Majestät von dem Berliner Hofe die bestimmte Zusage erhalten, dass an demselben oder doch am nachfolgenden Tage eine Königl. Ordre den früheren regelmässigen Friedensstand derjenigen Heerestheile wieder herstellen werde, welche seit dem 27. v. M. einen erhöhten Stand angenommen haben. ¶ Durch dieses Anerbieten glaubt die Kaiserl. Regierung Alles, was von ihrem Willen abhängt, zu thun, um dem stattgehabten Austausche friedlicher Erklärungen die demselben entsprechende thatsächliche Folge zu verschaffen. Ew. . . wollen sich unverweilt in diesem Sinne gegen den Königl. Herrn Ministerpräsidenten aussprechen, und das Auskunftsmittel, welches die gegenwärtige Depesche darbietet, bei Mittheilung derselben, jener ernstlichen Würdigung anempfehlen, auf welche wir für diesen neuen Beweis der Friedensliebe Oesterreichs den zweifellosesten Anspruch erheben dürfen. ¶ Empfangen, etc.

v. Mensdorff.

No. 2256.

PREUSSEN. — Min. d. Ausw. a. d. Königl. Ges. in Wien. — Annahme d. Oesterreichischen Abrüstungs-Vorschlags. —

Berlin, den 21. April 1866.

No. 2256. Preussen, 21. April 1866.

Ew. Excellenz erhalten in der Anlage Abschrift derjenigen Depesche des Grafen Mensdorff, welche Graf Karolyi am gestrigen Tage mir vorgelesen und in meinen Händen gelassen hat. Die von Sr. Majestät dem Könige angeordneten militärischen Massregeln hatten, wie Ew. Excellenz dies dem Kaiserlichen Cabinet wiederholt zu erklären in der Lage gewesen sind, lediglich den Zweck, das Gleichgewicht in der Kriegsbereitschaft wiederherzustellen, welches nach Ansicht der Königlichen Regierung dadurch gestört worden war, dass eine grosse Anzahl der in den verschiedenen Provinzen des Kaiserstaates vertheilten Truppenkörper solche Bewegungen vornahmen, durch welche die von ihnen im Kriegsfalle bis zur Preussischen Grenze zurückzulegenden Entfernungen vermindert wurden, zum Theil sehr erheblich. Dieser den Preussischen Rüstungen ausschliesslich zu Grunde liegende Beweggrund bringt es von selbst mit sich, dass S. Maj. der König bereitwillig die Hand dazu bieten wird, die getroffenen Vorsichtsmassregeln sobald und in dem Masse einzustellen, als von der Kaiserlichen Regierung die Ursachen, durch welche sie hervorgerufen wurden, beseitigt werden. In diesem Sinne ermächtige ich Ew. Excellenz auf Befehl Sr. Maj. des Königs, dem Kaiserlichen Minister der auswärtigen Angelegenheiten zu erklären, dass die Königliche Regierung den in der Depesche des Grafen Mensdorff vom 18. April enthaltenen Vorschlag mit Genugthuung entgegennimmt. ¶ Dem entsprechend wird, sobald der Königlichen Regierung die authentische Mittheilung zugeht, dass S. Majestät der Kaiser befohlen hat, die eine Kriegsbereitschaft gegen Preussen fördernden Dislocationen rückgängig zu machen, so wie die darauf bezüglichen Massregeln einzustellen, S. Maj. der König auch diesseits die Reduction derjenigen Heerestheile unverzüglich anordnen, welche seit dem 27. v. M. einen erhöhten Stand angenommen haben. Die Ausführung dieser Anordnung wird S. Majestät alsdann in demselben Masse und in denselben Zeiträumen bewirken lassen, in welchen die entsprechende Verminderung der Kriegsbereitschaft der Kaiserlich Oesterreichischen Armee thatsächlich vor sich gehen wird. Ueber das Mass und die Fristen, in welchen Letzteres geschieht, sieht also die Königliche Regierung den näheren Mittheilungen des Kaiserlichen Cabinets seiner Zeit entgegen, um demnächst in ihren eigenen Abrüstungen mit denen Oesterreichs gleichen Schritt halten zu können. ¶ Die Königliche Regierung setzt dabei voraus, dass auch die von anderen Deutschen Regierungen begonnenen militärischen Vorbereitungen wieder abgestellt und ihr durch Fortsetzung oder Erneuerung derselben nicht anderweite Veranlassung zu militärischen Vorsichtsmassregeln gegeben werde. Sie wird sich in diesem Sinne den einzelnen Höfen gegenüber aussprechen und erwartet, dass die Kaiserliche Regierung im Interesse des Friedens ihren Einfluss in gleicher Richtung verwenden werde. ¶

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Ew. Excellenz wollen den Inhalt dieses Erlasses zur Kenntniss des Herrn Grafen v. Mensdorff bringen und, wenn er es wünscht, Abschrift davon in seinen Händen lassen.

v. Bismarck.

No. 2257.

ÖSTERREICH. — Min. d. Ausw. an den Kais. Ges. in Berlin. — Die Nothwendigkeit, das Oesterreichische Heer an der Italienischen Grenze auf den Kriegsfuss zu setzen betr. —

Wien, den 26. April 1866.

No. 2257. Oesterreich, 26. April 1866.

Auf unsere Depesche vom 18. d. M. haben wir von dem Königl. Preussischen Cabinette die abschriftlich anliegende Rückäusserung erhalten. Ich habe mich beeilt, Sr. Majestät dem Kaiser dieselbe vor Augen zu bringen, und ich bin beauftragt, der Königl. Regierung durch Ew. Vermittlung Nachstehendes zu eröffnen. ¶ Es hat dem Kaiser, unserem allergnädigsten Herrn, zu aufrichtiger Befriedigung gereicht, dass der Vorschlag einer gleichzeitigen Abrüstung beider Mächte Preussischerseits angenommen worden ist. Allerhöchstdieselben hatten von den versöhnlichen Gesinnungen Sr. Majestät des Königs Wilhelm nicht weniger erwartet. Der Kaiser ist nunmehr vollkommen bereit zu verfügen, dass die zur Verstärkung der Garnisonen in Böhmen dorthin disponirten Truppen in das Innere des Reiches zurückgezogen werden, und dadurch selbst jedem Scheine einer gegen Preussen gerichteten Aufstellung ein Ende zu machen. ¶ Nur ist jetzt für uns eine Lage eingetreten, in welcher wir uns entschliessen mussten, unsere Vertheidigungsmittel nach anderer Richtung hin zu verstärken, und wir glauben uns deshalb versichern zu müssen, dass nicht etwa dieser letztere Umstand die Königlich Preussische Regierung abhalten werde, die Zurückziehung unserer Truppen von der Böhmischen Grenze mit der Reduction der in Kriegsbereitschaft gesetzten Preussischen Heerestheile zu erwiedern. ¶ Die letzten Nachrichten aus Italien stellen es nämlich ausser Zweifel, dass die Armee des Königs Victor Emanuel in Bereitschaft gesetzt wird, zu einem Angriffe auf Venetien überzugehen. ¶ Oesterreich ist daher genöthigt, sein Italienisches Heer durch Einberufung der Urlauber auf den Kriegsfuss zu setzen und für ausreichenden Schutz nicht nur seiner Grenze am Po, sondern auch seines ausgedehnten Küstengebietes zu sorgen, was nicht ohne bedeutende Truppenbewegungen im Innern der Monarchie in nachhaltiger Weise geschehen kann. Wir halten für nöthig, hiervon dem Königlichen Cabinette Mittheilung zu machen, um nicht den Missdeutungen ausgesetzt zu sein, welche in dem Augenblicke, da wir die in Böhmen vorgenommenen Dislocationen rückgängig machen, durch Nachrichten über unsere militärischen Vorbereitungen in anderen Theilen der Monarchie veranlasst werden könnten. Ew. Exc. werden daher beauftragt, der Königl. Regierung zu erklären, dass diese Vorbereitungen nur der Eventualität eines Kampfes gegen die Italiener gelten, und das wir mit der Ausführung des Vorschlages gegenseitiger Abrüstung augenblicklich beginnen werden, sobald

wir versichert sind, dass die Königl. Regierung den Massregeln, die wir zur Abwehr eines Angriffes unserer Nachbarn im Süden treffen müssen, keinen Einfluss auf die verabredete Herstellung des normalen Standes zwischen Oesterreich und Preussen gestatten werde. ¶ Ueber diesen Punkt wollen Ew. unverweilt mit dem K. Hrn. Ministerpräsidenten Rücksprache nehmen und ihn um eine der obigen Erklärung entsprechende Erwiederung ersuchen. ¶ Wenn übrigens der K. Preuss. Hof die Ausführung des Abrüstungsvorschlages auch an die Voraussetzung knüpft, dass in den Deutschen Bundesstaaten keine weiteren militärischen Vorbereitungen getroffen werden, so muss ich bemerken, dass bis jetzt unseres Wissens in diesen Staaten nirgends zu wirklichen Rüstungen geschritten worden ist und dass die Gesinnungen der betreffenden Regierungen im Voraus die vollste Bürgschaft für allgemeine Beibehaltung des Friedensstandes gewähren, sobald Oesterreich und Preussen dem stattgehabten Austausche friedlicher Erklärungen thatsächliche Folge zu geben beginnen. Ich kann schliesslich nicht unerwähnt lassen, dass es namentlich ganz von den Entschlüssen Preussens abhänge, durch eben so bestimmte Versicherungen der Einhaltung des Bundesfriedens, wie wir sie am 21. d. M. auch in der Mitte unserer Bundesgenossen abgegeben haben, jede Besorgniss, welche sich den Regierungen Deutschlands aufgedrängt haben mag, vollständig zu beseitigen. ¶ Ew. sind ermächtigt, den gegenwärtigen Erlass dem Herrn Grafen v. Bismarck in Abschrift mitzutheilen. ¶ Empfangen, etc.

v. Mensdorff.

No. 2257. Oesterreich, 26. April 1866.

No. 2258.

ÖSTERREICH. — Min. d. Ausw. an den Kaiserl. Ges. in Berlin. — Vorschlag zur definitiven Lösung der Schleswig-Holsteinischen Frage. —

Wien, 26. April 1866.

No. 2258. Oesterreich, 26. April 1866.

Hochgeborner Graf! Je grössere Wichtigkeit die Kaiserl. Regierung auf die gegenseitigen Erklärungen legt, durch welche in den letzten Tagen die augenblickliche Gefahr eines Conflictes zwischen den Deutschen Grossmächten glücklich überwunden worden ist, desto lebhafter wünscht der Kaiser, unser allergnädigster Herr, dass die Wiederkehr dieser Gefahr, an deren Dasein glauben zu müssen für S. Majestät peinlich gewesen ist, für immer verhütet werden möge. ¶ Dazu ist aber erforderlich, dass sich an das Einverständniss der Cabinette von Wien und Berlin über beiderseitige Entwaffnung alsbald auch ein Einverständniss über gründliche Beseitigung der Ursachen der eingetretenen Spannung knüpfe. ¶ Indem ich dies ausspreche, glaube ich nur einem Gefühle genug zu thun, welches in den weitesten Kreisen von den Freunden des Friedens, der Gerechtigkeit und der gemeinsamen Sache Deutschlands getheilt wird. Ich kann unmöglich besorgen, nicht auch bei der Königl. Preussischen Regierung dem ernsten Verlangen zu begegnen, Deutschland und Europa endlich von dem immer lästiger gewordenen Drucke der Frage der Elbherzogthümer zu befreien. Die Verantwortlichkeit, welche beide Mächte als Bundesgenossen gemeinsam gegenüber Europa, wie gegenüber dem Deutschen Bunde in dieser Sache über-

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nommen haben, macht es ihnen zu einer gemeinsamen Pflicht, die seitherigen gefahrdrohenden Ungewissheiten nicht länger fortdauern zu lassen. Wenn ich daher jetzt nach den gemachten Erfahrungen, bei dem Berliner Hofe doppelt dringlich auf die Nothwendigkeit einer für alle Theile gerechten und billigen definitiven Lösung der Schleswig-Holsteinischen Verwickelung zurückkomme, so wird diesem Schritte in Berlin ein richtiges Verständniss und eine von allen schädlichen Eindrücken der jüngsten Vergangenheit freie Würdigung sicher nicht fehlen, — gleich wie wir denselben unsererseits ganz ebenso unbefangen und leidenschaftslos unternehmen, als ob zwischen heute und dem ersten Tage der Cooperation der beiden Mächte gegen Dänemark kein störendes Ereigniss in der Mitte läge. ¶ Dies vorausgeschickt, sei es mir erlaubt, der ernstlichsten Aufmerksamkeit der K. Regierung die nachfolgenden Betrachtungen anzuempfehlen: ¶ Im Art. III des Wiener Friedensvertrages haben Oesterreich und Preussen sich nicht etwa einfach die Herzogthümer zu voller Souveränetät abtreten lassen. Sondern König Christian IX. hat zu ihren Gunsten auf seine Rechte verzichtet und zugleich versprochen, die Verfügungen anzuerkennen, welche die beiden Mächte in Bezug auf die Herzogthümer treffen werden. Es war sonach die Absicht der Mächte, dass auf jene Cession weitere Verfügungen gegründet werden sollten. Ebenso hat die Gasteiner Convention die Ausübung der erwähnten Rechte zwischen Oesterreich und Preussen nur bis auf weitere Vereinbarung getheilt. ¶ Es handelt sich demgemäss darum, welche Folge dem zu Wien wie Gastein ausgedrückten Vorbehalte anderweiter Vereinbarung und Verfügung gegeben werden soll. ¶ Der Kaiserl. Hof seinerseits hat sich zu wiederholten Malen bereit erklärt, diese Frage im Sinne derjenigen Erklärung zu erledigen, welche Oesterreich und Preussen im Einverständniss mit dem Bevollmächtigten des Deutschen Bundes am 28. Mai 1864 in der Londoner Conferenz abgegeben haben. Preussen dagegen hat bis jetzt keine bestimmte Ansicht über die Lösung der Souveränetätsfrage ausgesprochen. Nur hat neuerlich mehrfach verlautet, dass die Königl. Regierung das von der Majorität der Preussischen Kronjuristen erstattete Gutachten als massgebend für ihre Auffassung des Rechtspunktes betrachte. Wir kennen dieses Gutachten nicht officiell, aber man weiss, dass nach demselben der völkerrechtliche Titel, welchen die Monarchen von Oesterreich und Preussen durch den Wiener Friedensvertrag erworben haben, allen übrigen Ansprüchen, dem Oldenburgischen sowohl als dem Augustenburgischen, vorgehen soll. Die Souveränetät über Schleswig-Holstein soll definitiv auf die beiden Mächte übergegangen sein. Die Kaiserl. Regierung, welche von dem Londoner Vertrage niemals formell zurückgetreten ist, sondern nur das Recht des Siegers zu üben gedachte, als sie gemeinschaftlich mit Preussen die Trennung der Herzogthümer von Dänemark zu Gunsten des Augustenburgischen Hauses forderte, fühlt sich nicht berufen, gegen den Ausspruch der Kronjuristen theoretische Einwendungen zu erheben. Aber soll dieser Ausspruch gelten und der vorbehaltenen definitiven Vereinbarung zu Grunde gelegt werden, bei welcher praktischen Folgerung wären dann die beiden Mächte angelangt? Wäre neben dem Rechte Oesterreichs und Preussens jeder andere Prätendent ausgeschlossen, so müsste die provisorische

Theilung des Gasteiner Vertrages in eine definitive verwandelt werden. Der König von Preussen müsste seinen Titeln den eines Herzogs von Schleswig hinzufügen, Holstein ein Land der Oesterreichischen Kaiserkrone werden, unsere nächste Sorge müsste sein, die Beziehungen dieses Landes zum Deutschen Bunde auf den normalen Fuss zu stellen. ¶ Da dies nun aber nicht das Ziel sein dürfte, nach welchem die Wünsche der beiden Mächte gerichtet sind, so folgt, dass wohl nicht in dem Gutachten der Kronjuristen allein der Schlüssel zur endgültigen Lösung gefunden werden könne. Vielmehr dürfte es den beiden Höfen, durch vielfache wichtige Erwägungen nahe gelegt sein, auf den Vorbehalt des Artikels III des Wiener Friedensvertrages und zwar im ursprünglichen und natürlichsten Sinne dieses Vorbehalts, im Sinne der Verfügung über die Herzogthümer zu Gunsten eines Dritten zurückzugreifen. ¶ Es ist für S. Majestät den Kaiser Gewissenssache, einen solchen Einfluss unter den ernsten aber eine Wendung zum Guten noch heute nicht auszuschliessenden Verhältnissen der Gegenwart dem Könige von Preussen dringend an das Herz zu legen. Der Kaiser war des Königs Bundesgenosse gegen Dänemark, — noch ist es Zeit, dafür zu sorgen, dass nicht aus der im Namen Deutschlands gemeinsam unternommenen That die Frucht verderblichster Zwietracht inmitten verhängnissvoller Ereignisse hervorgehe. ¶ Auch vermag der Kaiser kaum zu glauben, dass es den Gedanken des Königs völlig fern stehen sollte, in dieser Deutschen Sache dem Bunde zuletzt zu geben, was des Bundes ist, und was einst selbst die den Preussischen Abgeordneten am 27. December 1863 ertheilte Königl. Antwort als dem Bunde zuständig anerkannt hat. Die Successionsfrage sollte, dieser Antwort zufolge, durch den Deutschen Bund unter Preussens Mitwirkung geprüft werden, und Preussen sollte dieser Prüfung nicht vorgreifen. In demselben Sinne haben Oesterreich und Preussen sich während der Londoner Conferenz geäussert, und die Europäischen Mächte, selbst das an der Erbfolgefrage betheiligte Russland, haben wiederholt ihre Achtung vor den Beschlüssen bezeigt, durch welche der Deutsche Bund die Frage, wer als rechtmässiger Souverän des Bundeslandes Holstein anzuerkennen sei, zur Entscheidung bringen werde. ¶ Eingedenk alles dessen, schlagen wir dem Königl. Preussischen Hofe hiermit vor, sich mit uns zu einer Erklärung in Frankfurt zu vereinigen, des wesentlichen Inhalts, dass Oesterreich und Preussen beschlossen hätten, die durch den Wiener Friedensvertrag erworbenen Rechte auf denjenigen Prätendenten weiter zu übertragen, welchem der Deutsche Bund die überwiegende Berechtigung zur Erbfolge im Herzogthum zuerkennen würde. ¶ Bietet die Königl. Regierung hierzu die Hand, so machen wir dagegen uns anheischig, überall, wo dies nöthig sein wird, dazu mitzuwirken, dass dem Preussischen Staate diejenigen speciellen Vortheile bleibend gesichert werden, mit deren Gewährung wir uns im Laufe der gepflogenen Verhandlung einverstanden gezeigt haben, und über welche, was Holstein betrifft, bereits in den Artikeln 2 bis 7 der Gasteiner Convention provisorische nähere Feststellungen enthalten sind. Preussen wird hiernach definitiv die militärischen Stellungen von Kiel, Rendsburg und Sonderburg erwerben. Kiel wird zwar Bundeshafen, Rendsburg Bundesfestung werden, aber die Königl. Regierung wird uns bereit finden, in den desfalls nach Artikel 2 und 3 der Gasteiner

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Convention im Einverständniss mit ihr in Frankfurt zu stellenden Anträgen jedem ihrer billigen Wünsche entgegenzukommen. Nicht weniger bereit sind wir, die von Preussen behufs der Befestigung von Düppel und Alsen gewünschten Territorial-Abtretungen gemeinschaftlich mit der Königl. Regierung, falls sie dies verlangt, gegenüber dem künftigen Landesherrn auszubedingen. Ebenso werden sich die Leistungen, welche die Herzogthümer bis zu einer allgemeinen Regelung der Marinefrage am Bunde für die Preussische Flotte zu übernehmen haben, ohne Schwierigkeit durch eine Convention zwischen Preussen und Schleswig-Holstein regeln lassen. Und dasselbe gilt von den Bestimmungen, welche die Gasteiner Convention zu Gunsten Preussens in den Artikeln 4, 5, 6 und 7 hinsichtlich der Communicationen durch Holstein, des Eintritts der Herzogthümer in den Zollverein und der Anlage eines Canals zwischen Nord- und Ostsee getroffen hat. ¶ Erwägt man, dass ausser diesen vielfachen und wichtigen Vortheilen Preussen bereits das Herzogthum Lauenburg erworben hat, während Oesterreich für sich nichts Anderes begehrt, als die bereits im Friedensvertrage ausbedungene Erstattung der Kriegskosten, — so wird man sicherlich den Antheil Preussens an den Errungenschaften eines Feldzugs, den es nicht allein, sondern im Bunde mit Oesterreich unternommen hat, nicht zu klein, man wird diesen Antheil nicht unwerth der gebrachten Opfer, man wird Oesterreich nicht eigennützig, man wird es nicht den Pflichten eines aufrichtigen Bundesgenossen untreu finden. Es wird hierüber nur Eine Meinung bei allen Unparteiischen walten können. Entzieht sich demungeachtet Preussen noch immer unsern so gerechten und ehrenvollen Vorschlägen, so wird uns keine andere Entschliessung mehr übrig bleiben, als dem Deutschen Bunde den ganzen Stand der Angelegenheit offen darzulegen, und der gemeinsamen Erwägung unserer Bundesgenossen anheimzugeben, welche Wege in Ermangelung eines Einverständnisses zwischen Oesterreich und Preussen einzuschlagen seien, um zur bundesgemässen Regelung der Holsteinischen Angelegenheit zu gelangen. Auch wird dann die Stimme des Landes Holstein, die ohne Zweifel vernommen zu werden verdient, um so weniger noch länger ungehört bleiben können, als ohnehin die Holsteinischen Stände nach der geltenden Verfassung im Laufe dieses Jahres einberufen werden müssen. ¶ Wir haben hiermit in einem ernsten Augenblicke die Ansichten des Kaisers, unseres Herrn, nochmals im Zusammenhange dargelegt. Der Weisheit und dem Gerechtigkeitssinne Seiner Majestät des Königs ist es vorbehalten, sie zu würdigen und die Wahl zu treffen, zwischen der Fortdauer eines Zwiespalts, dessen Folgen sich in der gegenwärtigen Weltlage jeder Berechnung entziehen, und einer Lösung, welche den Streit über das Schicksal der für Deutschland gewonnenen Herzogthümer unter allgemeiner Anerkennung, mit unverkennbarem Gewinn für Preussens Machtstellung und mit nicht geringer Erhöhung seiner historischen Ehren abschliessen würde. ¶ Ew. Excellenz sind ersucht, dem Königl. Herrn Ministerpräsidenten die gegenwärtige Depesche mitzutheilen und hiermit den Ausdruck des Wunsches thunlichster Beschleunigung der Rückäusserung des Königl. Cabinets zu verbinden. ¶ Empfangen, etc.

Mensdorff.

No. 2259.

PREUSSEN. — Min. d. Ausw. an den Kön. Ges. in Wien. — Antwort auf die Oesterr. Depesche vom 26. April (No. 2257), die Rüstungen gegen Italien betr. —

Berlin, 30. April 1866.

No. 2259. Preussen, 30. April 1866.

Graf Karolyi hat mir am 28. die in Abschrift anliegende Antwort der Kaiserl. Regierung auf meine an Ew. etc. gerichtete Depesche vom 21. d. M. mitgetheilt. ¶ Ich kann Ew. etc. zu meinem Bedauern nicht verhehlen, dass wir in Erwiederung auf unsere Eröffnung vom 21. d. M. eine Kundgebung anderer Art erwartet hatten. Wir hatten, wie ich es damals auf Befehl seiner Majestät des Königs aussprach, einer näheren Mittheilung über das Mass und die Fristen, in welcher die Verminderung der Kriegsbereitschaft der Kaiserlich Oesterreichischen Armee thatsächlich vor sich gehen werde, entgegengesehen, um demnächst in unseren eigenen Abrüstungen mit denen Oesterreichs gleichen Schritt halten zu können; und wir waren dabei von der Voraussetzung ausgegangen, dass das Kaiserl. Cabinet eben so sehr wie wir eine vollständige Rückkehr zum Friedensstande im Auge habe. ¶ Das Kaiserl. Cabinet scheint sich zwar überzeugt zu haben, dass die Befürchtungen vor offensiven Massregeln Preussens, welche als Motive der Rüstungen Oesterreichs dienten, grundlos waren, um so unerwarteter aber muss es für uns sein, wenn nunmehr das Kaiserliche Cabinet seine am 18. d. M. gemachten und von Sr. Majestät dem Könige mit Bereitwilligkeit angenommenen Entwaffnungsvorschläge nicht glaubt aufrecht halten zu können, dieselben vielmehr nach mehreren Seiten hin wesentlich abändert. Zunächst hatte Graf Mensdorff in seiner Depesche vom 18. in Aussicht gestellt, dass Oesterreich, wie in den Rüstungen, so auch in der Entwaffnung, die Initiative ergreifen werde. Dieses Zugeständniss scheint durch den Wortlaut der Depesche vom 26., welche die gleichzeitige Abrüstung verlangt, wieder in Frage gestellt zu werden. Demnächst waren wir dem Vorschlage der Kaiserl. Regierung nach dem eigenen Wortlaute desselben dahin beigetreten, dass S. Maj. der Kaiser zunächst befehlen wolle, „die, eine Kriegsbereitschaft gegen Preussen fördernden Dislocationen rückgängig zu machen, so wie die darauf bezüglichen Massregeln einzustellen". ¶ Diese Dislocationen hatten sich, wie es von der Kaiserlichen Regierung selbst anerkannt worden ist, in Gestalt einer Annäherung von Truppenkörpern an die nordwestliche Grenze Oesterreichs über den grösseren Theil des Kaiserstaates erstreckt, und durften wir nach dem Vorschlage der Kaiserlichen Regierung mit Recht annehmen, dass die beabsichtigte Herstellung des normalen *status quo ante* sich auf die Gesammtheit jener die Kriegsbereitschaft fördernden Bewegungen erstrecken werde. Statt dessen schränkt die neueste Erklärung der Kaiserlichen Regierung die von derselben in Aussicht gestellte Abrüstung ausschliesslich auf die Zurückziehung der nach Böhmen zur Verstärkung der dortigen Garnisonen verlegten Truppentheile ein, welche, nach Angabe der Kaiserl. Regierung, 10 Bataillone Infanterie betragen. Bezüglich der übrigen Kronländer erwähnt die Depesche nicht ein-

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mal Schlesiens, Mährens und West-Galiziens, welche an Preussen grenzen und in welchen notorisch namentlich eine bedeutende Anzahl Cavallerie-Regimenter, aus entfernten Landestheilen herbeigezogen, aufgestellt sind. Während in der nur Böhmen betreffenden Massregel die Kaiserl. Regierung ein volles Aequivalent für die Rückkehr Preussens zum Friedensstande zu gewähren meint, spricht sie nunmehr unumwunden die Absicht aus, in den übrigen Theilen des Kaiserstaates diejenigen bedeutenden „Truppenbewegungen und Einberufungen von Beurlaubten" eintreten zu lassen, welche erforderlich sein werden, um „die Italienische Armee" Sr. Majestät des Kaisers auf den Kriegsfuss zu setzen. Dass zu letzterem Zwecke in der ganzen Monarchie Pferde-Ankäufe in ausgedehntem Umfange erfolgen, geht aus den sichersten Nachrichten hervor. Welche Stärke die Kaiserl. Regierung hiernach der, in den anderen Theilen der Monarchie mit Ausnahme also Böhmens, oder auch etwa der übrigen an Preussen grenzenden Kronländer, aufzustellenden kriegsbereiten Armee zu geben beabsichtigt, wird natürlich allein von dem Urtheile der Kaiserl. Regierung und von der Bedeutung abhängen, welche sie der Gefahr des Angriffs beimisst, von welcher sie sich bedroht glaubt. ¶ Die Oesterreichische Depesche enthält hiernach die Forderung, dass Preussen seine seit dem 28. März unverändert gebliebenen, an sich bescheiden bemessenen Defensiv-Rüstungen abstellen solle, während Oesterreich zwar seine Garnison-Verstärkungen aus Böhmen zurückzieht, im Uebrigen aber seine Rüstungen Behufs Herstellung einer kriegsbereiten Armee ausdehnt und beschleunigt. Ich kann Ew. etc. nicht verhehlen, dass wir auf diese Forderung nach dem Austausche der beiderseitigen Erklärungen vom 18. und 21., welche von uns und von Europa als eine Bürgschaft des Friedens begrüsst worden, nicht vorbereitet waren. Die Kaiserl. Regierung führt zur Rechtfertigung der veränderten Haltung, welche sie mit der Depesche vom 26. annimmt, die Nachrichten an, welche ihr aus Italien zugegangen sind. Nach denselben soll die Armee des Königs Victor Emanuel sich in Bereitschaft gesetzt haben, um zu einem Angriffe auf Venetien überzugehen. Die Nachrichten, welche uns aus Italien direct und durch Vermittlung anderer Höfe zugehen, lauten übereinstimmend dahin, dass in Italien Rüstungen von bedrohlichem Charakter gegen Oesterreich nicht stattgefunden haben, und befestigen uns in der Ueberzeugung, dass ein unprovocirter Angriff auf den Oesterreichischen Kaiserstaat den Intentionen des Florentiner Cabinets fern liege. Sollten in der Zwischenzeit und in den jüngsten Tagen militärische Vorbereitungen in Italien begonnen haben, so würden dieselben wahrscheinlich eben so wie unsere am 28. März ergriffenen Massregeln, als eine Folge der von Oesterreich ausgegangenen Rüstungen angesehen werden dürfen. Wir sind überzeugt, dass die Italienischen Rüstungen eben so bereitwillig als die diesseitigen abgestellt werden würden, sobald die Ursachen, durch welche sie veranlasst wurden, fortfielen. ¶ Im Interesse der Erhaltung des Friedens und der Aufhebung der Spannung, welche auf den Beziehungen der Politik und des Verkehrs gegenwärtig lastet, ersuchen wir daher die Kaiserl. Regierung nochmals, dass sie unbeirrt an dem Programm festhalten wolle, welches sie selbst in ihrer Depesche vom 18. aufgestellt hat und welches S. Majestät der König in versöhnlichstem Sinne und in Bethätigung seines per-

sönlichen Vertrauens zu Sr. Majestät dem Kaiser unverzüglich angenommen hatte. Wir müssen in Ausführung desselben erwarten, dass zunächst alle seit Mitte März nach Böhmen, Mähren, Krakau und Oesterreichisch Schlesien gezogenen Truppen nicht nur in ihre früheren Garnisonen zurückkehren, sondern auch alle in jenen Ländern stehenbleibenden Truppenkörper wieder auf den früheren Friedensfuss versetzt werden. Ueber die Ausführung dieser Massregeln, also die Herstellung des *status quo ante*, sehen wir einer baldigen authentischen Benachrichtigung entgegen, da der von der Kaiserl. Regierung zur Zurückführung der gegen unsere Grenzen versammelten Truppen in den Friedenszustand selbst auf den 25. April festgesetzte Termin längst verstrichen ist. Wir hoffen, dass die Kaiserl. Regierung demnächst durch nähere Ermittelungen die Ueberzeugung gewinnen werde, dass ihre Nachrichten über die aggressiven Absichten Italiens unbegründet waren, und dass sie alsdann zur effectiven Herstellung des Friedensfusses in der gesammten Kaiserl. Armee schreiten und uns dadurch zur Genugthuung Sr. Majestät dasselbe Verfahren ermöglichen werde. So lange dieser unseres Erachtens allein richtige und, wie wir glauben durften, beiderseits angenommene Weg nicht eingeschlagen wird, ist es für die Königl. Regierung nicht thunlich, der nächsten Zukunft, in welcher ihr wichtige und folgenschwere Verhandlungen mit der Kaiserlichen Regierung bevorstehen, anders als unter Feststellung des Gleichgewichts in der Kriegsbereitschaft beider Mächte entgegen zu gehen. Von Verhandlungen, welche von einer Seite bewaffnet, von der andern in voller Entwaffnung geführt würden, kann sich die Königl. Regierung einen gedeihlichen Erfolg nicht versprechen. ¶ In diesem Sinne bedauert sie es lebhaft, dass die Kaiserl. Regierung auf den diesseitigen Vorschlag nicht hat eingehen wollen, auch die übrigen Bundesregierungen um Einstellung ihrer militärischen Vorkehrungen zu ersuchen, deren thatsächliches Vorhandensein von den betreffenden Regierungen selbst nicht in Abrede gestellt wird. Sie hat sich ihrerseits dadurch nicht abhalten lassen, an die Königlich Sächsische Regierung, deren Rüstungen am weitesten vorgeschritten sind, die entsprechende Aufforderung zu richten; würde aber den Erfolg derselben und damit die Interessen des Friedens als gesicherter angesehen haben, wenn die Kaiserl. Oesterreichische Regierung sich zu dem gleichen Verfahren hätte entschliessen können. ¶ Ew. etc. ersuche ich ergebenst, diesen Erlass dem Kaiserlich Oesterreichischen Herrn Minister vorzulesen und ihm Abschrift davon zurückzulassen.

v. Bismarck.

No. 2259. Preussen, 30. April 1866.

No. 2260.

ÖSTERREICH. — Min. d. Ausw. an den Kais. Ges. in Berlin. — Erwiederung auf die vorstehende Oesterreichische Depesche vom 30. April, die Rüstungen betr. —

Wien, den 4. Mai 1866.

Ich habe die Ehre, Ew. etc. im Anschlusse Abschrift einer von dem Frhrn. v. Werther mir mitgetheilten Depesche des Königl. Preuss. Cabinets, d. d. Berlin, 30. v. M., zu übersenden. ¶ Die Regierung Sr. Majestät des

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No. 2260. Oesterreich, 4. Mai 1866.

Königs von Preussen glaubt nach dieser Depesche, dass für Oesterreich keine Veranlassung vorliege, sich auf die Abwehr eines Angriffs auf seinen Italienischen Besitzstand vorzubereiten. Sie erklärt, dass, wenn Oesterreich es desungeachtet nicht für angemessen halte, zur effectiven Herstellung des Friedensfusses der gesammten Kaiserl. Armee zu schreiten, es auch für Preussen nicht thunlich sei, den bevorstehenden wichtigen und folgenschweren Verhandlungen mit der Kaiserl. Regierung anders als unter Festhaltung des Gleichgewichts in der Kriegsbereitschaft beider Mächte entgegenzugehen. ¶ Ew. etc. begreifen, dass wir Angesichts dieser Erklärung die Verhandlung über eine gleichzeitige Zurücknahme der von Preussen gegenüber Oesterreich und von Oesterreich gegenüber Preussen angeordneten militärischen Vorbereitungen für erschöpft halten müssen. Durch die von uns in Berlin, wie in Frankfurt ertheilten feierlichen Versicherungen steht fest, dass Preussen von uns keine Offensive, Deutschland keinen Bruch des Bundesfriedens zu besorgen habe. Ebenso wenig beabsichtigt Oesterreich, Italien anzugreifen, wiewohl die Losreissung eines Theiles des Oesterreichischen Staatsgebietes das bei jeder Gelegenheit offen ausgesprochene Programm der Florentiner Regierung bildet. Dagegen ist es unsere Pflicht, für die Vertheidigung der Monarchie zu sorgen, und wenn die Regierung Preussens in unsern Defensivmassregeln gegen Italien ein Motiv erblickt, ihre eigene Kriegsbereitschaft aufrechtzuerhalten, so bleibt uns nur übrig, dieser Pflicht, die keine fremde Controle zulässt, Genüge zu thun, ohne uns in fernere Erörterungen über die Priorität und den Umfang einzelner militärischer Vorkehrungen einzulassen. ¶ Dass wir übrigens nicht blos die Integrität unsers Reiches, sondern auch das Gebiet des Deutschen Bundes gegen eine Offensive Italiens sicherzustellen haben, wird man sich in Berlin nicht verhehlen können, und wir dürfen im Interesse Deutschlands die ernste Frage stellen, wie Preussen das Verlangen, dass wir die Deutschen Grenzen unbewacht lassen sollen, mit den Pflichten einer Deutschen Macht vereinbar finden könne. Wenn endlich Herr Graf v. Bismarck uns mittheilt, dass Preussen die Königl. Sächsische Regierung aufgefordert habe, ihre Rüstungen einzustellen, so müssen wir die Ueberzeugung aussprechen, dass der König von Sachsen, ebenso wie der Kaiser, unser Allergnädigster Herr, nur an nothgedrungene Selbstvertheidigung denkt, gestützt auf die Bundesverträge, welche die Abwehr jedes Friedensbruches zu einer gemeinsamen Verpflichtung sämmtlicher Mitglieder des Bundes machen. ¶ Ew. etc. wollen die vorstehenden Bemerkungen zur Kenntniss des Königl. Herrn Ministerpräsidenten bringen, auch Sich für ermächtigt halten, eine Abschrift der gegenwärtigen Depesche mitzutheilen. Empfangen, etc.

v. Mensdorff.

No. 2261.

PREUSSEN. — Min. des Ausw. an den Königl. Ges. in Dresden. — Die Rüstungen und Kriegsvorbereitungen in Sachsen betr. —

Berlin, den 27. April 1866.

No. 2261. Preussen, 27. April 1866.

Aus den Aeusserungen des Königl. Sächsischen Herrn Ministers der auswärtigen Angelegenheiten, welche Ew. etc. wiederholt berichtet haben, hatten

No. 2261. Preussen, 27. April 1866.

wir bisher entnehmen müssen, dass das Programm der Sächsischen Regierung im Falle eines zwischen Preussen und Oesterreich ausbrechenden Conflicts die Neutralität sein werde. Der Herr Freiherr von Beust hat es als seine eigene Ansicht ausgesprochen, dass diese Neutralität auf das Strengste innegehalten und nach keiner Seite hin verlassen werden dürfe. Zugleich hat er den Bundesstandpunkt als für Sachsen allein massgebend bezeichnet und es sich sowohl in seinen hierher gerichteten, wie in den am Bundestage abgegebenen Erklärungen zur besondern Aufgabe gemacht, nachzuweisen, dass dieser Bundesstandpunkt einen Krieg unmöglich mache, und dass die Institutionen des Bundes, namentlich der Artikel XI der Bundesacte, hinreichende Mittel darböten, um eine Spannung zwischen Bundesgliedern auszugleichen und einen Conflict zu verhüten. In einem schwer zu lösenden Widerspruche hiermit stehen die Nachrichten, welche uns über die nichtsdestoweniger in Sachsen stattfindenden Rüstungen und Kriegsvorbereitungen zugehen, und welche uns nicht darüber in Zweifel lassen, dass die ganze Sächsische Armee allmählich auf vollen Kriegsfuss gesetzt werde, und dass dies Verhältniss, namentlich durch die angeordneten und zum grössern Theil bereits effectuirten Pferdeankäufe, bei der Artillerie bereits vollständig, bei der Cavalerie nahezu erreicht sei. ¶ Die Natur unsrer gegenwärtigen Beziehungen zu Oesterreich und die geographische Lage Sachsens erlauben uns nicht, diese Vorbereitungen und Rüstungen unbeachtet zu lassen. Wir können es nicht gleichgültig ansehen, wenn in einem solchen kritischen Augenblicke ein Staat, dessen Haltung von Bedeutung für beide Theile ist, Massregeln trifft, welche nur einen Sinn haben, wenn die Neutralität aufgegeben werden soll. Dazu kommt — zu meinem Bedauern muss ich es aussprechen — dass die bisherige Stellung der Königl. Sächsischen Regierung und der in der Sächsischen officiösen Presse sich kundgebende Geist der Feindseligkeit gegen Preussen uns kaum eine andere Annahme erlaubt, als dass diese Rüstungen gegen uns gerichtet seien. ¶ Diese Erwägungen werden es rechtfertigen, wenn wir die Königl. Regierung um Aufklärungen über ihre Kriegsvorbereitungen angehen. ¶ Auf Befehl Sr. Majestät des Königs habe ich daher Ew. etc. ergebenst zu ersuchen, von dem Freiherrn v. Beust mündlich, aber amtlich, sich die geeigneten Aufklärungen über den Zweck dieser Rüstungen zu erbitten. Ew. etc. wollen ihm dabei zugleich andeuten, dass, wenn diese Aufklärungen nicht in befriedigender Weise gegeben und die vorgenommenen Rüstungen nicht abgestellt werden, S. Majestät der König genöthigt sein würden, entsprechende militärische Massregeln Sachsen gegenüber anzuordnen. ¶ Indem ich einer baldigen gefälligen Rückäusserung entgegensehe, ermächtige ich Ew. etc. zugleich, diese Depesche dem Königl. Sächsischen Herrn Minister der auswärtigen Angelegenheiten in ihrem vollen Umfange vorzulesen und, wenn er es wünschen sollte, sie auch in seinen Händen zu lassen.

v. Bismarck.

Sr. Hochwohlgeboren dem Herrn v. d. **Schulenburg**, *Dresden.*

No. 2262.

SACHSEN. — Min. des Ausw. an den Königl. Ges. in Berlin. — Antwort auf die vorstehende Preussische Depesche, die Sächsischen Rüstungen betreffend. —

Dresden, 29. April 1866.

No. 2262. Sachsen, 29. April 1866.

Der Königl. Preussische Herr Gesandte hat mir gestern die in Abschrift anliegende Depesche seiner höchsten Regierung in Händen gelassen. Ich habe mich beeilt, dieselbe Sr. Maj. dem Könige unserm Allergnädigsten Herrn vorzulegen und nachdem, Allerhöchster Willensmeinung gemäss, inmittelst der Herr Kriegsminister mich mit den nöthigen Nachweisungen versehen hat, befinde ich mich jetzt in der Lage, Ew. etc. nachstehende Erwiderung behufs der Mittheilung an die Königl. Preussische Regierung zugehen zu lassen. ¶ Der uns vorliegende Erlass des Herrn Grafen v. Bismarck beschäftigt sich zunächst mit der Stellung, welche Sachsen gegenüber dem zwischen Oesterreich und Preussen drohenden Conflict, in politischer Hinsicht eingenommen habe, und sodann mit kriegerischen Vorbereitungen, zu welchen man, anscheinend im Widerspruch mit dieser Stellung, geschritten sei. ¶ In beiden Beziehungen habe ich Folgendes aufklärend zu bemerken. ¶ Wenn ich mich nicht zu erinnern vermag, in meinen Unterhaltungen mit dem Preussischen Herrn Gesandten die Innehaltung unbedingter Neutralität für das Programm der Sächsischen Regierung erklärt zu haben, so ruht es mir dagegen in sehr frischem Gedächtnisse, dass Herr v. d. Schulenburg wiederholt Anlass genommen hat, diese Neutralität im Falle eines Krieges zwischen Preussen und Oesterreich, als etwas factisch sehr Schwieriges, wenn nicht Unmögliches zu bezeichnen, eine Auffassung, die, zusammengehalten mit manchen von Berlin aus direct erhaltenen Nachrichten für die Königl. Regierung eine ernste Mahnung wurde, der Eventualität jenes kriegerischen Conflictes nicht mit jener Ruhe und Sorglosigkeit entgegenzugehen, wie sie eine der Respectirung ihrer Neutralität sichere Regierung, unter solchen Verhältnissen, bewahren kann. Den Bundesstandpunkt aber haben wir allerdings nicht allein als den für uns massgebenden stets bezeichnet, sondern wir haben denselben auch unverrückt festgehalten. Diesem Standpunkte zufolge, welcher in einer, diesseits adoptirten Depesche der Königl. Bayerschen Regierung vom 8. März ausführlich dargelegt wurde, ist ein Krieg zwischen Bundesgliedern, nach den Bundesgrundgesetzen, unzulässig; den übrigen Bundesgliedern steht aber nicht das Recht zu, in solchem Falle mit dem Einen oder dem Andern der streitenden Theile in Separatverhandlungen oder Separatbündnisse zu treten, woraus sich die Folgerung ergiebt, dass, wenn ein Bundesstaat infolge seiner Weigerung einer selbständigen Parteiergreifung mit Gewalt bedroht werden sollte, er auf Unterstützung und Vertheidigung des Bundes zu rechnen habe. So fest nun das Vertrauen ist, welches die Königl. Regierung bei dem Eintritte einer solchen Eventualität in die Gesinnungen und Absichten ihrer Bundesgenossen setzen würde, so durfte sie sich gleichwohl der Betrachtung nicht entziehen, dass der derselben zunächst ausgesetzte Bundesstaat sich in solchem Falle vor Allem

selbst in die nöthige Verfassung zu setzen hat, um dem von ihm anzurufenden Bunde nicht als wehrloses, sondern als gerüstetes Glied sich zur Verfügung stellen zu können. Zu dieser Erwägung fand sich die Königl. Regierung um so mehr aufgefordert, als ihr Zusicherungen darüber, dass ihr Territorium unberührt bleiben werde, in keiner Weise zu Theil wurden, sie dagegen längs ihrer Grenze und in unmittelbarer Nähe derselben kriegerische Vorbereitungen und erhebliche Ansammlungen von Streitkräften wahrzunehmen hatte. ¶ Dennoch hat die Königl. Regierung die ihr durch die Pflichten gegen den Bund sowohl, als gegen das eigene Land zur Nothwendigkeit gemachten Vorsichtsmassregeln auf ein sehr geringes Mass zu beschränken sich bestrebt. Man begnügte sich zunächst damit, die Recruten der Infanterie und Artillerie, wozu ohnedies das früher als sonst eingetretene Frühjahrswetter Gelegenheit bot, um einige Wochen zeitiger als sonst, zu ihrer Ausbildung einzuziehen. Erst als der Conflict eine ernstere Gestalt anzunehmen schien, wurde zu Pferdeanschaffungen über den Friedensetat geschritten. Da die Reiterei stets für den bundesmässigen Kriegsstand an Combattanten die Pferde complet führt, so sind nur einige Hundert Remonten für die Depots bestellt worden. Die Anschaffungen für die Artillerie beschränkten sich nur auf die Feuerlinie und die nothwendigsten Trains. Die Infanterie hat ihren Sommerpräsensstand niemals überschritten. Die Einlieferung von Pferden über den Etat, welche für alle Waffengattungen bis jetzt die Zahl von 1073 beträgt, hat erst seit dem 21. d. M. stattgefunden, da bis zum Abschlusse des Contractes von keiner Seite Mittheilungen über Abrüstungen eingegangen waren. Nach Eingang der Nachricht von der Bereitwilligkeit der beiden Grossmächte, abrüsten zu wollen, wurde der Lieferant bedeutet, keine weitern Ankäufe von Pferden zu bewirken, und es sind nur noch, den Bestimmungen des Contractes gemäss, einige Hundert Pferde zu übernehmen, welche bereits für die Regierung angekauft worden waren. Eine Ueberlassung dieser bereits angekauften Pferde an den Lieferanten gegen eine Entschädigung wurde von diesem nicht angenommen, indem er erklärte, gegenwärtig nicht in der Lage zu sein, diese Pferde veräussern zu können. ¶ Obschon der Herr Graf v. Bismarck es nicht für nöthig erachtet, unsre Auslassung über den wahren Thatbestand zu vernehmen, vielmehr sofort sich bewogen gefunden hat, Aufklärungen über den Zweck unsrer angeblichen Rüstungen zu verlangen, so dürfen wir doch hoffen, dass auch diesem Theile unsrer Darlegung eine eingehende Beachtung nicht werde versagt werden. Verhehlen können wir aber nicht, dass die gegenwärtige Eröffnung uns in nicht geringem Grade überrascht hat. Wir waren bisher der Meinung gewesen, dass wir uns in der Lage befänden, einer Beruhigung zu bedürfen, aber nicht eine solche zu ertheilen. Mehr als einmal trat uns die Erwägung nahe, ob es nicht an der Zeit sei, die an den Grenzen stattfindenden Vorkommnisse zum Gegenstande einer Anfrage zu machen, ob nicht dringender Anlass geboten sei, bei dem Bunde rechtzeitige Vorkehr zu beantragen oder ihm wenigstens über unsre Lage und Das, was wir in derselben zu thun uns genöthigt fänden, Anzeige zu erstatten. Wir haben dies Alles unterlassen, um selbst den möglichen Schein jedes provocirenden Schrittes zu vermeiden. Umsoweniger waren wir auf eine solche Aufforderung vorbereitet,

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wie sie jetzt an uns gerichtet wird. Da diese Aufforderung aber einmal erfolgt ist, so giebt sie uns ebensowohl das Recht, als sie uns die Pflicht auferlegt, mit aller Offenheit zu antworten. Jene Rüstungen — wenn überhaupt die hier getroffenen Vorbereitungen diesen Namen verdienen — hatten keinen andern Zweck, als Das vorzukehren, was jedes und auch ein mindermächtiges Land in der Erwartung eines feindlichen Angriffs vorzukehren hat. Jeder Gedanke einer Bedrohung von unsrer Seite lag und liegt uns fern, und wenn bei dem beschränkten Umfang unsrer Streitkräfte dieser Gedanke nur insofern eine Bedeutung haben könnte, als es sich um Unterstützung eines von einem mächtigern Staate beabsichtigten Angriffs handeln sollte, so wird, wie wir hoffen dürfen, die Bezugnahme auf den oben dargelegten, den Bundesgesetzen entsprechenden und von uns unverrückt festgehaltenen Standpunkt genügen, welcher jedes solche Unternehmen ausschliesst. Haben wir doch in unsrer Erwiderung vom 6. April erklärt, dass wir am Bunde dafür stimmen und darnach handeln würden, dass dem Angreifer entgegen getreten werde. ¶ Was hier geschehen ist, geschah zur Abwehr und zur Erfüllung der Bundespflicht; und der Herr Graf v. Bismarck wird, bei eingehender Erwägung, sich gewiss der Ueberzeugung nicht verschliessen, dass Massregeln der fraglichen Art nicht nur dann, wie Er bemerkt, einen Sinn haben, wenn die Neutralität aufgegeben, sondern auch dann, wenn für die Respectirung der Neutralität, die nicht von uns, sondern allein vom Bunde abhängt, keine Sicherheit geboten wird. Der Herr Ministerpräsident wird dann, so dürfen wir hoffen, uns auch nicht ferner den Vorwurf machen, uns mit unserem eigenen bundesmässigen Standpunkte in einen unlösbaren Widerspruch gesetzt zu haben. ¶ Die Königl. Preussische Regierung glaubt den hier getroffenen Massregeln einen bedrohlichen Charakter, im Hinblick auf den in unsrer officiösen Presse sich kundgebenden feindseligen Geist gegen Preussen beilegen zu sollen. Es würde uns zu weit führen und gewiss nicht zur Verständigung dienen, wenn wir auf dieses Thema näher eingehen und unternehmen wollten, die beiderseitige Presse zu beleuchten und zu untersuchen, wo der Angriff und wo die Abwehr zu finden sei. In dem Kampfe der Ansichten und Ueberzeugungen, der sich in den letzten Jahren in Deutschland entsponnen hat, konnte auch die officiöse Presse sich nicht der Aufgabe entziehen, Das, was sie nach ihrer Ueberzeugung für Recht und Wahrheit hielt, mit Freimuth zu vertreten. Wir glauben behaupten zu dürfen, dass die unsrige es mit Mass und Anstand gethan hat. Wollte aber in jeder freimüthigen und loyalen Discussion sofort eine Feindseligkeit erblickt werden, dann würde jener Kampf der Parteipresse allein zu überlassen sein, und wir glauben nicht, dass dies in der Absicht der Königl. Preussischen Regierung liege. In der unsrigen aber hat es sicherlich nie gelegen, einen Geist der Feindseligkeit gegen Preussen kundgeben zu lassen, und die Königl. Preussische Regierung wird nicht vergessen wollen, wie vor wenigen Jahren die Sächsische Regierung sich nicht scheute, durch einen offenen Anschluss an Preussen eine feindselige Sprache der gesammten ausserpreussischen Presse gegen sich heraufzubeschwören. Wie aber immer die Haltung unsrer officiösen Presse, während der letztvergangenen Zeit, beurtheilt werden möge — nirgends wird man darin eine Zeile finden, welche einem Kriege

gegen Preussen das Wort geredet hätte. Wohl aber würden wir im Stande sein, in der Preussischen officiösen Presse Stellen nachzuweisen, welche Sachsen als den unvermeidlichen Schauplatz des Krieges bezeichneten. ¶ Was wir der Königl. Preussischen Regierung in unsrer Erwiderung vom 6. April zu empfehlen uns erlaubten, das möchten wir auch jetzt ihr dringend ans Herz legen. Möge, wenn die vorstehende Darlegung — wider unser Verhoffen — nicht genügen sollte, es ihr gefallen, sich an den Bund zu wenden, dort wird sicherlich jeder Zweifel über den, einem offensiven Zweck völlig fremden, Charakter unserer Vorkehrungen schwinden. Wir behalten uns selbst vor, diesen Weg der Aufklärung zu betreten, und wir werden nur zu glücklich sein, durch ein friedliches Vorgehen unsrer mächtigen Nachbarn jeder weitern lästigen Vorsorge enthoben und in die erfreuliche Lage gesetzt zu werden, die bisher getroffenen Vorkehrungen in Wegfall zu bringen. ¶ Einstweilen habe ich mit Beruhigung davon Act zu nehmen, dass der Königl. Preussische Herr Gesandte auf meine Frage, ob unter den in Aussicht genommenen militärischen Massregeln, gegenüber dem Königreich Sachen, nur solche zu verstehen seien, welche sich innerhalb der Preussischen Grenze bewegen, persönlich eine bejahende Antwort ertheilen zu können geglaubt hat. Wir knüpfen daran die zuversichtliche Erwartung, dass die Königl. Preussische Regierung auch in diesem Umfange dazu in den Verhältnissen keinen weitern Grund erblicken werde. ¶ Indem ich Ew. etc. ersuche, Sich im Sinne vorstehender Bemerkungen gegen den Herrn Ministerpräsidenten Grafen v. Bismarck zu äussern, ermächtige ich Sie, gegenwärtige Depesche ihm in Händen zu lassen.

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v. Beust.

Sr. Exc. dem wirkl. Geh. Rath Grafen v. **Hohenthal** in *Berlin.*

No. 2263.

ÖSTERREICH. — Min. d. Ausw. a. d. Kais. Vertreter im Auslande. — Die Nothwendigkeit d. defensiven Stellung Oesterreichs gegenüb. Italien betr. —

Wien, 27. April 1866.

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Ich habe die Ehre, Ihnen einliegend die Abschrift einer Depesche zu übermachen, die ich gestern an den Grafen Karolyi gerichtet habe. Wir haben zu viel Unterpfänder unserer friedlichen Absichten gegeben, es ist zu augenscheinlich, dass weder die Politik der Kaiserl. Regierung, noch die Interessen Oesterreichs sich mit den agressiven Plänen vertragen, als dass man in Europa die Aufrichtigkeit unserer Sprache bezweifeln könne. ¶ Den Vorbereitungen gegenüber, welche in Italien im grossartigsten Massstabe gemacht werden, und da die Eroberung einer unserer Provinzen seit langer Zeit ein eingestandenes Ziel der von der Regierung des Königs Victor Emanuel befolgten Politik ist, würde es von unserer Seite eine unbegreifliche Blindheit sein, wenn wir nicht die für unsere Vertheidigung unumgänglichen Massregeln ergreifen wollten. Ausser unsern Landesgrenzen haben wir von Seiten Italiens eine sehr lange Küstenstrecke zu vertheidigen. Unsere Truppen, wie sie im Innern des Reichs vertheilt und auf ihr Minimum herabgesetzt waren, genügten nicht, um alle blossgestellten Punkte zu decken, die oft durch bedeutende Entfernungen von ein-

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ander getrennt sind. ¶ Indem wir uns einer falschen Sicherheit überliessen, würden wir nichts thun, als zum Angriff unserer entblössten Grenzen einzuladen. Wir haben daher verschiedene Truppenbewegungen anbefohlen und unsere Armee in Italien auf einen vollständigeren Fuss setzen müssen. Diese Massregeln haben, ich wiederhole es, nur den strengsten defensiven Charakter, und es fällt der Kaiserl. Regierung nicht ein, einen Krieg, mit wem es auch sein möge, hervorzurufen. ¶ Sie können die Versicherung davon in der förmlichsten Art erneuern, aber wir betrachten es zu derselben Zeit als eine gebieterische Pflicht, nichts zu vernachlässigen, um uns in den Stand zu setzen, einen bewaffneten Einfall zurückzuschlagen. Kein Cabinet könnte, wie ich glaube, die Verantwortlichkeit auf sich nehmen, uns den Rath zu ertheilen, anders zu handeln, denn keins würde in der gegenwärtigen Sachlage uns die Unverletzlichkeit unseres Gebietes verbürgen wollen. ¶ Empfangen Sie, etc. *v. Mensdorff.*

No. 2264.

ITALIEN. — Min. d. Ausw. an die Kön. Vertreter in Auslande. — Die militärischen Massregeln Oesterreichs gegenüber Italien und die Nothwendigkeit von Massregeln Seitens Italiens betr. —

Florence, 27 avril 1866.

No. 2264. Italien, 27. April 1866.

Monsieur le ministre, — Vous n'ignorez pas que dans ces derniers temps les préoccupations du Gouvernement du Roi et du Parlement avaient surtout pour objet la réorganisation de l'administration intérieure, ainsi que les réformes et les économies à introduire dans les finances publiques. ¶ Les mesures prises spécialement pour la réduction des charges de l'État avaient été poussées récemment, en ce qui concerne l'armée, aussi loin que le comporte le pied de paix normale; le Gouvernement du Roi s'était même déterminé à différer provisoirement les opérations de la levée de 1866, lorsque survinrent entre la Prusse et l'Autriche de graves complications. ¶ Le Gouvernement du Roi sans méconnaître l'importance des éventualités qui pouvaient surgir, ne jugea pas cependant devoir détourner le pays de son œuvre de consolidation intérieure, et se borna à prendre les mesures élémentaires que la prudence commande à tout gouvernement en pareil cas. Ainsi il retira naturellement les restrictions exceptionnelles apportées depuis quelques mois au pied de paix antérieur et laissa les opérations de la levée annuelle suivre leur cours ordinaire. ¶ Il a été facile à quiconque de constater qu'aucune concentration de troupes n'a eu lieu en Italie, et que les classes de réserve et les soldats en congé n'ont point été appelés sous les armes. ¶ Le calme le plus parfait n'a pas cessé de régner parmi nos populations; l'on n'a vu se produire aucun commencement, aucune velléité, même de tentatives privées contre les territoires limitrophes. ¶ C'est dans cet état de tranquillité, et au moment même où l'on était partout dans l'attente d'un désarmement qui paraissait convenu entre les cabinets de Berlin et de Vienne, que l'Italie se vit tout à coup en butte à des menaces directes de l'Autriche. ¶ Le cabinet de Vienne, dans des documents officiels, prétendit, contre l'évidence, que des concentrations de troupes et des appels de réserves avaient lieu en

Italie, et motiva sur ces faits imaginaires la continuation de ses armements. ¶ Le Gouvernement Autrichien ne se borna pas à ces accusations, par lesquelles il mettait lui-même l'Italie en cause dans son différend avec la Prusse; il multiplia ses préparatifs militaires, et leur donna en Vénétie un caractère ouvertement hostile contre nous. ¶ Depuis le 22, l'appel de toutes les classes de réserve s'effectue avec la plus grande activité dans l'empire; les régiments des confins militaires sont convoqués sous les drapeaux et acheminés sur l'Italie; des mesures de guerre sont prises, surtout en Vénétie, avec une précipitation extraordinaire; l'on y donne dès aujourd'hui les dispositions qui suivent communément l'ouverture des hostilités: la circulation des marchandises, par exemple, est entièrement suspendue sur les chemins de fer de la Vénétie, l'administration militaire s'étant réservé tous les moyens de transport pour le mouvement des troupes et du matériel de guerre. ¶ Vous êtes chargé, M. le ministre, de signaler ces faits à l'attention du Gouvernement auprès duquel vous êtes accrédité. — Il appréciera, j'en ai la confiance, les devoirs que des circonstances aussi graves imposent au Gouvernement du Roi. ¶ Il est devenu indispensable pour la sécurité du royaume que nos forces de terre et de mer, demeurées jusqu'aujourd'hui sur le pied de paix, soient accrues sans retard. En prenant les mesures militaires que réclame la défense du pays, le Gouvernement du Roi ne fait que répondre aux exigences de la situation qui lui est faite par l'Autriche. ¶ Agréez, etc. *La Marmora.*

No. 2265.

HOLSTEIN. — Eingabe des Barons Scheel-Plessen und Gen. an den Kaiserl. Königl. Statthalter für das Herzogthum Holstein, die Beschwerde der Herzogl. Holsteinischen Landesregierung über die sogenannte Neunzehner-Adresse betr. —

No. 2265. Holstein, 31. März 1866.

Hochzuverehrender Herr Kaiserl. Königl. Feldmarschall-Lieutenant und Statthalter für das Herzogthum Holstein Freiherr v. Gablenz.

Ew. Excellenz ist es bekannt, dass die gehorsamst Unterzeichneten in einem in Gemeinschaft mit einem im Herzogthume Holstein nicht ansässigen Mitgliede der Schleswig-Holsteinischen Ritterschaft an S. Excellenz den Königl. Preussischen Herrn Minister-Präsidenten Herrn Grafen von Bismarck gerichteten Schreiben ausgesprochen haben, dass sie das Wohl und Heil der Herzogthümer Schleswig und Holstein nur in deren Vereinigung mit der Preussischen Monarchie erblicken können *). Es ist darauf ein Schreiben der Herzogl. Landesregierung an Ew. Excellenz in den hiesigen Tagesblättern, namentlich in der No. 49 der „Schleswig-Holsteinischen Zeitung" und in derselben No. des „Altonaer Merkurs" erschienen, in welchem neben einer an Hochdieselben gerichteten Bitte die Landesregierung erklärt, dass sie sich vorbehalten, „gegen die Holsteinischen Unterzeichner der (vorgedachten Adresse) wegen öffentlich zu ahndender Beleidigung ein gerichtliches Verfahren zu veranlassen **)." Es ist nicht zur Kunde der Unterzeichneten gelangt, dass die Herzogl. Landesregierung den Inhalt dieses

*) No. 2238.

**) No. 2244.

No. 2265. Holstein, 31. März 1866.

Schreibens desavouirt, noch auch, dass sie wegen etwaniger durch Veröffentlichung desselben begangener Indiscretion die Beikommenden zur Verantwortung gezogen hätte. Die Unterzeichneten werden daher davon ausgehen dürfen, dass die Herzogl. Landesregierung sich wirklich zu dem Inhalte dieses Schreibens bekennt, auch dass dasselbe mit ihrem Wissen und Willen der Oeffentlichkeit übergeben ist. Sie erlauben sich in dieser Voraussetzung, Ew. Excellenz darauf aufmerksam zu machen, dass wenn die Landesregierung unter Bezugnahme auf eine in ihrem Schreiben enthaltene Bemerkung die Worte gebraucht hat, „es ist nicht wahr, dass im Herzogthume Holstein Agitationen g e d u l d e t werden etc.“ sie ihnen Worte in den Mund gelegt hat, deren sie sich weder dem Wortlaute noch dem Sinne nach bedient haben. Die gehorsamst Unterzeichneten haben nämlich zur Motivirung ihres Wunsches, dass das von ihnen ersehnte Ziel bald erreicht werden möge, auf allgemein bekannte, durch das Mittel der Tagespresse, durch Versammlungen der sogenannten Schleswig-Holsteinischen Vereine, grosse Volksversammlungen und auf sonstige Weise ins Werk gesetzte Agitationen Bezug genommen, deren ausgesprochener Zweck ihnen als eine sowohl rechtliche wie moralische Unmöglichkeit erscheint. Sie haben aber nicht gesagt, dass diese Agitationen g e d u l d e t würden, noch sonst durch entsprechende Aeusserungen ein Urtheil darüber abgegeben, ob und in wie weit der Herzogl. Landesregierung die Verantwortung für solche thatsächlich stattfindende Agitationen zur Last falle. Die Unterzeichneten beabsichtigen jedoch nicht, diesen Gesichtspunkt hier weiter zu verfolgen, noch auf den übrigen Inhalt des Schreibens der Landesregierung tiefer einzugehen. Nur in Betreff des von derselben gemachten Vorbehalts sehen sie sich genöthigt, an Ew. Excellenz ihre ehrerbietigsten Anträge zu stellen. ¶ Die Landesregierung hat den Unterzeichneten den Vorwurf gemacht, dass sie sich gegen dieselbe eine öffentlich zu ahndende Beleidigung hätten zu Schulden kommen lassen. ¶ Dieser Vorwurf enthält eine schwere Beleidigung, welche die Unterzeichneten um so schwerer empfinden, als sie in einem an Ew. Excellenz gerichteten Schreiben enthalten ist, und als, insofern die Landesregierung sich unter Ew. Excellenz Oberaufsicht in Function befindet und von Ew. Excellenz zu ihrer Thätigkeit berufen ist, die Unterzeichneten, wenn der Vorwurf überhaupt begründet wäre, zugleich der Vorwurf treffen würde, die Ew. Excellenz schuldige Ehrerbietung und Hochachtung ausser Acht gelassen zu haben. Die Unterzeichneten haben dem von der Landesregierung angedrohten gerichtlichen Verfahren um so getroster entgegengesehen, als sie nicht gezweifelt haben, dass dasselbe ihnen Gelegenheit geben würde, sich von jedem ihnen von der Landesregierung gemachten Vorwurfe zu reinigen. ¶ Es sind aber jetzt schon Wochen vergangen, ohne dass von einer Einleitung solchen Verfahrens den Unterzeichneten eine Kunde zugekommen wäre. Sie haben daher Grund zu befürchten, dass die Landesregierung ihrer Drohung keine Folge zu geben gesonnen sei. Sie können aber ihrerseits die ihnen in höchst verletzender Weise zugefügte schwere Beleidigung schon mit Rücksicht auf die Ew. Excellenz schuldige Ehrerbietung nicht auf sich beruhen lassen. Die Unterzeichneten fühlen sich daher genöthigt, Ew. Excellenz ehrerbietigst zu ersuchen: ¶ Ew. Excellenz wollen der Herzogl. Landesregierung aufgeben, innerhalb einer

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kurzen nach Eurer Excellenz hohem Ermessen zu präfigirenden Frist das angedrohte gerichtliche Verfahren gegen die Unterzeichneten einzuleiten oder innerhalb gleicher Frist zur öffentlichen Kunde in officieller Weise gelangen zu lassen, dass sie sich davon überzeugt habe, dass die Unterzeichneten keine öffentlich zu ahndende Beleidigung sich haben zu Schulden kommen lassen, mithin zu dem angedrohten gerichtlichen Verfahren keine Veranlassung gegeben haben. ¶ Für den Fall, dass Ew. Excellenz etwa, weil die Landesregierung auf gerichtliches Verfahren, wenn auch in einem an Ew. Excellenz gerichteten officiellen Schreiben Bezug genommen hat, Anstand nehmen sollten, diese Angelegenheit im Verwaltungswege zu erledigen, wünschen die Unterzeichneten die zu ihrer Rechtfertigung erforderlichen gerichtlichen Schritte gegen die Landesregierung wahrzunehmen. ¶ Nach dem § 8 der Verordnung vom 11. Juli 1854 steht es aber den Gerichten im Herzogthume Holstein nicht zu, über die Rechtmässigkeit einer von Seite einer Regierungsbehörde getroffenen Massregel ein Urtheil zu fällen, insofern nicht specielle gesetzliche Bestimmungen oder Allerhöchste Resolutionen eine Ausnahme hiervon zulassen. So wenig nun die öffentliche Androhung eines gerichtlichen Verfahrens gegen Privatpersonen zu den Regierungsmassregeln zu gehören pflegt, so wird dieselbe doch in der Form, wie sie erfolgt ist, kaum unter eine andere Rubrik zu bringen sein. Die Unterzeichneten werden daher, wenn nicht eine Ausnahme in vorliegendem Falle ausdrücklich zugelassen wird, zu gewärtigen haben, von dem übrigens beikommenden Gerichte mit ihren Anträgen unter Bezugnahme auf den § 8 eben gedachter Verordnung abgewiesen zu werden. Fern liegt den Unterzeichneten aber der Gedanke, dass die Herzogl. Landesregierung nicht Willens sein sollte, ihre verletzenden officiellen Aeusserungen auch gerichtlich zu vertreten. ¶ Eventuell wenden die Unterzeichneten daher sich an Ew. Excellenz mit der ehrerbietigsten Bitte:

> Ew. Excellenz wollen vermöge der Ihnen von Sr. Majestät dem Kaiser eingeräumten hohen Machtvollkommenheit eine Resolution dahin erlassen, dass die von der Landesregierung den Unterzeichneten durch vorgedachte Worte ihres Schreibens an Ew. Excellenz zugefügte Beleidigung den übrigens bestehenden Gesetzen gemäss einem gerichtlichen Urtheil zu unterziehen sei, und Ew. Excellenz wollen zugleich geneigen zu bestimmen, von welchem Gerichte des Herzogthums Holstein das Urtheil zu fällen und an welches Gericht der Recurs von dem gefällten Urtheil eventuell zu nehmen sei.

In tiefster Ehrfurcht verharren wir Ew. Excellenz gehorsamste

Scheel-Plessen, — *Baudissin* auf Borstel, — *I. Reventlow-Crimmil* auf Emkendorf, — *F. Reventlow* auf Ehlersdorf, — Graf *E. v. Schimmelmann* auf Ahrensburg, — *Broersdorff-Ahlefeld* auf Ascheberg, — *v. Mesmer-Saldern* auf Annenhof, — *Adolf Blome* auf Heiligenstedten und in Vollmacht für den Grafen *Blome* auf Salzau, — *F. Hahn-Neuhaus,* — *Gr. Cronstern-Nehmten,* — *E. Reventlow* auf Altenhof als Besitzer des adligen Gutes Glasau, — Graf *Schimmelmann* auf Tengstedt, — *G. Platen* auf Caden, — *Th. Reventlow* auf Jersbeck und Stegen, — *Buchwaldt-Helmstorff.*

No. 2266.

HOLSTEIN. — Der Statthalter für das Herzogth. Holstein an den Baron Scheel-Plessen und Gen. — Antwort auf deren vorstehende Eingabe. —

No. 2266. Holstein, 8. April 1866.

Das Schreiben, welches Euer Hochwohlgeboren gemeinsam mit mehreren anderen Unterzeichneten der von einem Theil des Holsteinischen Adels an den Königlich Preussischen Ministerpräsidenten, Grafen v. Bismarck, unter dem 23. Januar l. J. übersandten Adresse an mich gerichtet haben, ist mir zugekommen, und ich will nicht säumen, mich darüber mit jener vollen Offenheit auszusprechen, welche ich mir bei allen meinen Handlungen stets zur Richtschnur genommen habe. Gerne will ich dabei die möglichste Objectivität vorwalten lassen und kann es daher auch nur sehr begreiflich finden, dass Euer Hochwohlgeboren sammt Genossen das Bedürfniss empfinden, noch zu einer näheren Erläuterung dieses von ihnen unternommenen Schrittes Gelegenheit zu erhalten und namentlich eine Widerlegung der Annahme zu versuchen, als hätten Sie damit beabsichtigt, gegen die Kaiserliche Statthalterschaft oder die Herzogliche Landesregierung eine Anklage erheben, einen beleidigenden Tadel über ihre Verfahrungsweise aussprechen zu wollen. ¶ Ich habe indessen mein Urtheil über den Inhalt der erwähnten Kundgebung bereits vor aller Welt dargelegt, und so sehr ich bedauere, dass dasselbe für die Unterzeichner nicht günstig lauten konnte, muss ich daran doch auf das Entschiedenste festhalten, bin aber gerne geneigt, die Gründe, welche mich zu dieser Auffassung bestimmen, hier nochmals kurz zusammenzufassen. Vorausschicken muss ich, dass meine Person hierbei gar nicht in Frage kommt. Von Seiner Majestät dem Kaiser zur Verwaltung des Landes Holstein berufen, ist es aber meine heilige Pflicht, darauf zu achten, dass Nichts ungeahndet sich ereigne, was den von meinem Allergnädigsten Herrn gegenwärtig ausgeübten Souveränetätsrechten, was der Ehre und Würde der Kaiserlichen Regierung zu nahe zu treten geeignet ist. Hiergegen ist indessen durch die erwähnte Adresse gefehlt worden: Sie war unzulässig in der Form, denn sie trachtete die höchste Regierungsgewalt im Herzogthume zu umgehen; sie war unzulässig nach ihrem Inhalte, denn die darin vorkommende Darstellung der hiesigen Verhältnisse trat den leitenden Behörden des Landes zu nahe; in erster Linie der Landesregierung, in zweiter der K. K. Statthalterschaft selbst, auf welche beide hierdurch der Vorwurf fallen musste, tadelnswerthen, ja gefahrdrohenden Zuständen nicht die gehörige Aufmerksamkeit und Sorgfalt zugewendet zu haben. ¶ Diese meine Anschauungsweise hat Allerhöchsten Orts unbedingte Billigung erhalten, und auch der Eingabe der Landesregierung, aus welcher von Ew. Hochwohlgeboren und Ihren Genossen nunmehr eine Beleidigung der Unterzeichner der gedachten Adresse abgeleitet werden will, ist von dem Kaiserlichen Herrn Minister des Aeussern, Namens des Kaiserlichen Cabinets in nachstehenden Worten die ehrendste Anerkennung zu Theil geworden: ¶ „Ich entspreche der Intention Sr. Majestät, indem ich Sie ermächtige, der „Landesregierung zu eröffnen, dass der Kaiserliche Hof das pflichtmässige und „nur der Aufrechthaltung der Gesetze wie der Pflege der Landeswohlfahrt ge-

„widmete Wirken dieser Behörde würdigend, die Gefühle des Unwillens voll-„kommen gerechtfertigt findet, mit welchen die Landesregierung die in der Adresse „Scheel-Plessen gegen die Verwaltung des Landes erhobenen Beschuldigungen „zurückgewiesen hat. Die Mitglieder der Landesregierung werden aus dieser „Eröffnung Ew. Excellenz ohne Zweifel die Ueberzeugung schöpfen, dass für sie „nicht die entfernteste Veranlassung vorliege, um Enthebung von ihren in durch-„aus anerkennenswerther Weise versehenen Functionen zu bitten.“ ¶ Unter solchen Verhältnissen kann, wie Ew. Hochwohlgeboren ermessen werden, von einem Auftrage an die Landesregierung, wonach sie zu einer Erklärung verhalten werden soll, wie Ew. Hochwohlgeboren eine solche andeuten, in keiner Weise die Rede sein. Wenn aber die Landesregierung von ihrem ursprünglichen Vorhaben, eine gerichtliche Vernehmung der Unterzeichner der Neunzehner-Adresse eintreten zu lassen, abgestanden ist, so hat sie dies auf meine Veranlassung gethan. Mein ganzes Verhalten, seitdem ich den Boden Holsteins als Statthalter betreten, zeigt, dass das Verfolgen einer politischen Meinung im Lande meinen Gedanken ganz fern liegt, ich im Gegentheile hoffe, dass durch das ungehinderte und freie Aussprechen der verschiedenen nun einmal vorhandenen Ansichten am besten die wünschenswerthe Verständigung gefördert werden kann. Es hat mir nur scheinen wollen, als ob die bezeichnete gerichtliche Vernehmung von mancher Seite, wenn auch unrichtig, in einer Weise gedeutet zu werden vermöchte, als sei nunmehr eine Aera politischer Tendenzprocesse für das Land eröffnet. Der Wunsch die, sei es auch irrige Meinung nicht aufkommen zu lassen, als stände ein solch' trauriges Schauspiel bevor, war daher, nächst den allgemeinen, aus dem von mir befolgten politischen Systeme abgeleiteten Erwägungen für mich massgebend und musste mir es als nothwendig erscheinen lassen, mich vom ersten Momente an mit Entschiedenheit gegen eine solche Massregel auszusprechen. Auch hierin habe ich das Glück gehabt, mich mit den Intentionen meines hohen Cabinets zu begegnen. ¶ Es geht daraus auf das Unzweideutigste hervor, dass der Landesregierung nicht der leiseste Vorwurf einer Unentschlossenheit gemacht werden kann, und dass sie sich nur meinem Ausspruche fügte, als sie dieser anfänglich von ihr gehegten Ansicht keine weitere Folge gab und auch in Zukunft nicht geben wird. ¶ Ich muss Ew. Hochwohlgeboren auf diese Momente mit Nachdruck aufmerksam machen, weil Sie sich nur auf diese Weise ein richtiges Bild des wahren Sachverhalts entwerfen und Ihre Handlungsweise darnach bemessen können. ¶ Es ist nun augenscheinlich, dass alle jene politischen Bedenken, welche ich gegen ein eventuelles Vorgehen der Landesregierung in gedachter Richtung erhob, sich noch in weitaus verstärktem Masse der von Ihnen und Ihren Genossen gehegten Absicht entgegenstellen müssen, einer angeblichen Beleidigung halber nunmehr gerichtliche Schritte gegen die Landesregierung einzuleiten. ¶ Aus Motiven, welche sogleich eine nähere Erörterung finden werden, will ich mich jedoch hierüber so kurz als möglich fassen und zunächst nur darauf hinweisen, wie es bei ruhiger und aufmerksamer Prüfung für Jedermann klar sein muss, dass der von Ihnen und Ihren Genossen angezogene §. 8 der Verordnung vom Jahre 1854 auf den vorliegenden Fall in gar keiner Weise passt. Wie Ew. Hochwohlgeboren ja selbst nicht

No. 2266. Holstein, 8. April 1866.

entgangen ist, könnte es auch der gewaltsamsten Interpretation kaum gelingen, zu einem andern Ergebniss zu gelangen, und ich darf Ew. Hochwohlgeboren daher durchaus nich verhehlen, dass zu einer Resolution wie Sie dieselbe erbitten, in der That auch nicht die mindeste Veranlassung vorliegt. ¶ Es versteht sich aber von selbst, dass ich hiermit durchaus nicht gewillt sein kann, in Ihre etwaigen, weitern Entschliessungen irgendwie hemmend einzugreifen. Da wie gesagt der §. 8 ein Hinderniss nicht bilden kann, so steht es Ihnen wie jedem Staatsbürger im Lande frei, die Ihrerseits für erforderlich erachteten gerichtlichen Schritte vorzunehmen, das Uebrige muss den Gerichtsbehörden überlassen bleiben, und ich habe darauf keinerlei Einfluss zu üben. Die hierdurch neuerdings wieder geschürte politische Aufregung im Lande kann ich bedauern, aber von dem bei meiner Ankunft feierlich proclamirten Principe, Holstein nach den bestehenden Gesetzen zu regieren, werde ich niemals abweichen. Ich stehe über, nicht in den politischen Parteien und werde diesen Standpunkt auch inmitten der mannigfachen Schwierigkeiten, welche die gegenwärtige Lage darbietet, und die man nicht aller Orten gehörig zu würdigen scheint, consequent festzuhalten wissen.

Gablenz.

No. 2267.

HOLSTEIN. — Baron Scheel-Plessen an den K. K. Statthalter für das Herzogth. Holstein. — Replik auf dessen vorstehend. Schreiben v. 8. April. —

No. 2267. Holstein, 10. April 1866.

Hochzuverehrender Herr K. K. Feldmarschall-Lieutenant und Statthalter für das Herzogthum Holstein! Freiherr v. Gablenz!

Ew. Excellenz habe ich die Ehre, den Empfang Ihres hohen Schreibens vom 8. d. M., durch welches Hochdieselben die von mir im Verein mit Mehreren an Ew. Excellenz unter dem 31. v. M. gerichtete Eingabe beantwortet haben, zu bestätigen. Nachdem Ew. Excellenz auf keinen der in letzterer gestellten Anträge einzugehen Sich veranlasst gefunden haben, wird es weiterer Beschlussnahme der Betheiligten vorbehalten bleiben müssen, ob sie sich bei der erhaltenen Antwort beruhigen wollen oder ob sie sich zu ferneren Schritten genöthigt sehen möchten. Ich darf nur jetzt schon Ew. Excellenz Namens der Betheiligten versichern, dass sie mit ihrer Eingabe keine andern Zwecke als die ausgesprochenen beabsichtigt haben, dass sie die mannigfachen Schwierigkeiten, welche die gegenwärtige Lage Ew. Excellenz bietet, vollkommen zu würdigen wissen und dass sie die an S. Excellenz den Herrn Minister-Präsidenten Grafen v. Bismarck unter dem 23. Januar d. J. übersandte Adresse sowohl der Form wie dem Inhalte nach für durchaus gerechtfertigt halten. Mir liegt es zunächst nur ob, Ew. Excellenz geehrtes Schreiben zur Kenntniss der Unterzeichner der an Hochdieselben gerichteten Eingabe zu bringen und erlaube ich mir, ehe ich das deshalb Erforderliche wahrnehme, Ew. Excellenz gegenüber auszusprechen, dass ich glaube, von der Voraussetzung ausgehen zu dürfen: Hochdieselben werden Nichts dagegen zu erinnern finden, wenn ich bei dieser Gelegenheit den Weg der Oeffentlichkeit beschreite. Mit aufrichtigster Verehrung verbleibe ich

Ew. Excellenz gehorsamster *C. Scheel-Plessen.*

Inhalt des März- und April-Heftes 1866.

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